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COMPTROLLER GENERAL OF THE UNITED STATES

U.S. GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

MANUAL OF
REGULATIONS AND INSTRUCTIONS

RELATING TO DISCLOSURE OF FEDERAL CAMPAIGN FUNDS FOR CANDIDATES
FOR THE OFFICE OF PRESIDENT OR VICE PRESIDENT OF THE UNITED STATES
AND POLITICAL COMMITTEES SUPPORTING SUCH CANDIDATES



MARCH 1972

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Title 11—FEDERAL ELECTIONS

Chapter I—Comptroller General CAMPAIGN COMMUNICATIONS AND DISCLOSURE OF FEDERAL CAM- PAIGN FUNDS

There is hereby established a new Title 11, entitled Federal Elections, in the Code of Federal Regulations.

The Federal Election Campaign Act of 1971 (Public Law 92-225, approved February 7, 1972) was enacted to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes. The Act directs the Comptroller General of the United States to prescribe rules and regulations for several sections of Title I, entitled the "Campaign Communications Reform Act," and under Title III, entitled "Disclosure of Federal Campaign Funds."

This chapter is entirely new and is issued by the Comptroller General to carry out the statutory mandate. Subchapter A of this chapter contains regulations issued by the Comptroller General under Title I of the Act, and Subchapter B of this chapter contains regulations issued by the Comptroller General as a supervisory officer under Title III of the Act. Both subchapters will be amended from time to time in the light of experience under the Act. Any such amendments will be published in the FEDERAL REGISTER and codified in the Code of Federal Regulations, Title 11.

Effective date: This chapter is effective on April 7, 1972.

SUBCHAPTER A—CAMPAIGN COMMUNICATIONS

PART 1—SCOPE OF SUBCHAPTER

§ 1.1 Scope of this subchapter.

(a) This subchapter applies to all legally qualified candidates, as defined in § 2.8 of Part 2 of this subchapter, for nomination or election to the office of President or Vice President of the United States, or the office of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States. It relates to expenditures for communications media, as defined in § 2.1 of Part 2 of this subchapter, by such candidates in connection with their campaigns for nomination or election.

(b) This subchapter is to be read together with the regulations and guidelines issued by the Federal Communications Commission under section 103(a) and section 104(c) of the Campaign Communications Reform Act, and with the regulations issued under Title III of the Federal Election Campaign Act of 1971 by the supervisory officers thereunder, namely, the Secretary of the Senate, the Clerk of the House of Representatives, and the Comptroller General (see Subchapter B of this chapter).

(Sec. 105, 86 Stat. 7, — U.S.C. —. Interpret or apply sections 102, 103(b), 104(a), and 104(b), 86 Stat. 3, 4, 6, — U.S.C. —)

PART 2—MEANING OF TERMS USED IN THIS SUBCHAPTER

Sec.	
2.1	Communications media.
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2.4	Newspaper.
2.5	Magazine.
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2.14	Comptroller General.
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AUTHORITY: The provisions of this Part 2 issued under section 105, 86 Stat. 7, — U.S.C. —. Interpret or apply section 102, 86 Stat. 3, — U.S.C. —.

§ 2.1 Communications media.

"Communications media" means broadcasting stations, newspapers, magazines, outdoor advertising facilities, and telephones; but, with respect to telephones, spending or an expenditure shall be deemed to be spending or an expenditure for the use of communications media only if such spending or expenditure is for the costs of telephones, paid telephonists, and automatic telephone equipment used by a candidate for Federal elective office to communicate with potential voters (excluding any costs of telephones incurred by a volunteer for use of telephones by him). See Part 4 of this subchapter for regulations concerning particular communications media.

§ 2.2 Broadcasting station.

"Broadcasting station" means a radio or television station providing a broadcasting service intended for direct reception by the general public, and under section 315(f) of the Communications Act of 1934, a community antenna television system.

§ 2.3 Outdoor advertising facilities.

"Outdoor advertising facilities" means billboards and any display space in any public place of a type customarily leased to commercial advertisers.

§ 2.4 Newspaper.

"Newspaper" means a publication, having a known address of publication and an established frequency of distribution, ordinarily not less frequently than once a week, which contains news, articles of opinion, features, advertising, or other matter regarded as of interest or currency. The term includes shopping newspapers that primarily contain advertising and local newspapers that contain legal notices or other matters pertaining to court proceedings. Any such publication is included whether it is designed primarily for paid circulation or is designed primarily for free circulation. The term does not include handbills, circulars, flyers, or the like, unless printed and distributed as a part of a publication which constitutes a newspaper within the meaning of this section.

§ 2.5 Magazine.

"Magazine" means a publication in bound pamphlet form or otherwise:

(a) Intended for circulation to either the reading public in general or a segment thereof identified on the basis of a common specialized interest or interests; and

(b) Published and distributed regularly and periodically, ordinarily not more frequently than weekly, nor less frequently than semiannually; and

(c) Containing, in written, pictorial, or graphic form, news, information, articles of opinion, poems, features, advertising or other matters regarded as of interest or currency. Any such publication is included whether it is designed primarily for paid circulation or is designed primarily for free circulation.

§ 2.6 Expenditure and spend.

"Expenditure" and "spend" mean the purchase, promise to purchase, or payment for, any use of the communications media on behalf of any legally qualified candidate's candidacy for nomination or election to Federal elective office.

§ 2.7 Federal elective office.

"Federal elective office" means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States (and, for purposes of Part 3 of this subchapter, the term includes the office of Vice President).

§ 2.8 Legally qualified candidate.

"Legally qualified candidate" means any person who (a) meets the qualifications prescribed by the applicable laws to hold the Federal elective office for which he is a candidate, and (b) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors.

§ 2.9 Federal candidate.

"Federal candidate" means any legally qualified candidate for Federal elective office.

§ 2.10 Voting age population.

"Voting age population" means resident population, 18 years of age and older.

§ 2.11 State.

"State" means each State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 2.12 Election.

"Election" means a general, special, primary, or runoff election for a Federal elective office.

§ 2.13 Act.

"Act" means the Campaign Communications Reform Act, enacted as title I of the Federal Election Campaign Act of 1971 (Public Law 92-225).

§ 2.14 Comptroller General.

"Comptroller General" means the Comptroller General of the United States.

§ 2.15 Person.

"Person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons.

§ 2.16 Supervisory officer.

"Supervisory officer" means the Secretary of the Senate with respect to candidates for U.S. Senator; the Clerk of the House of Representatives with respect to candidates for Representative in, or Delegate or Resident Commissioner to, the Congress of the United States; and the Comptroller General of the United States in any other case.

PART 3—NEWSPAPER AND MAGAZINE CHARGES FOR CAMPAIGN USE

Sec.

- 3.1 Scope of part.
- 3.2 Comparable use charges.
- 3.3 Rate cards.
- 3.4 Complaints of violations.

AUTHORITY: The provisions of this Part 3 issued under section 105, 86 Stat. 7, — U.S.C. —. Interpret or apply section 103(b), 86 Stat. 4, — U.S.C. —.

§ 3.1 Scope of part.

This part applies to the sale by any person of any space in a newspaper or magazine to—

(a) A legally qualified candidate for nomination or election to Federal elective office; or

(b) A political committee or other person for use in connection with such a candidate's campaign.

However, this part applies only to the extent that any person sells space in a newspaper or magazine to such candidate, committee, or other person, and there is no requirement under this part that any newspaper or magazine must sell space to any such candidate, committee or other person.

§ 3.2 Comparable use charges.

(a) The charges made for the use of space in any newspaper or magazine in connection with a campaign for nomination or election to Federal elective office shall not exceed the charges made for comparable use of such space for other purposes. Such charges may not be higher than the rate the newspaper or magazine would charge if the Federal candidate were a general rate advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. The rate shall take into account the amount of space used, the number of times used, the frequency of use, and the kind of space used, as well as the type of advertising copy submitted by or on behalf of the candidate. All discount privileges otherwise offered by a newspaper or magazine to general rate advertisers shall be available upon equal terms to all Federal candidates.

(b) A newspaper or magazine may, if it chooses, require payment in advance

or the posting of security for the use of space in connection with a campaign (see § 4.11 of this subchapter for the requirement of certification by a Federal candidate or his specially authorized agent in order for any charge to be made).

§ 3.3 Rate cards.

Every newspaper and magazine which sells space to or for any Federal candidate shall maintain an advertising rate schedule or card showing its general advertising rates and discounts. Such schedule or card shall be made available for inspection by such candidates, or their authorized representatives, and by the supervisory officers, or their authorized representatives, upon request.

§ 3.4 Complaints of violations.

(a) Any legally qualified candidate for Federal elective office or nomination thereto who believes that a newspaper or magazine, or any person acting on their behalf, has violated any provision of this part may file a complaint with the Comptroller General, after making reasonable good faith efforts to resolve the difference with the newspaper or magazine.

(b) The complaint shall give details of the alleged violation and shall be as specific as possible. The complainant shall simultaneously send a copy of the complaint to the newspaper or magazine. The latter shall furnish to the Comptroller General as promptly as possible a full explanation of its position. Both parties shall furnish each other with a copy of all correspondence and documents sent to the Comptroller General.

(c) The Comptroller General shall promptly review any complaint filed under this part, and if he determines that there has been an apparent violation of this part, he shall refer the matter to the Attorney General of the United States for appropriate action.

PART 4—EXPENDITURE LIMITATIONS FOR USE OF COMMUNICATIONS MEDIA

Subpart A—Amount of Limitation

Sec.

- 4.1 Calculation by Comptroller General.
- 4.2 Separate limitation for each election.
- 4.3 "Expenditure" and "spend"; when deemed to take place; election contributed to.
- 4.4 Expenditures on behalf of a Federal candidate.
- 4.5 Amounts spent urging opponent's defeat or derogating his stand.
- 4.6 Allocation of expenditure among candidates.
- 4.7 Records of communications media expenditures.

Subpart B—Certification Requirements For Use of Newspapers, Magazines and Outdoor Advertising Facilities

- 4.11 Prohibition of charges without certification.
- 4.12 Form of certification and authorization.

Subpart C—Outdoor Advertising Facilities

- 4.21 Apportionment when used in more than one election.

Subpart D—Telephone Use to Communicate with Potential Voters

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- 4.31 Applicability.

Subpart E—Broadcasting Stations

- 4.41 Charges by broadcasting stations to Federal candidates.

AUTHORITY: The provisions of this Part 4 issued under section 105, 86 Stat. 7, — U.S.C. —. Interpret or apply section 104(a) of the Act, 86 Stat. 5, — U.S.C. —.

Subpart A—Amount of Limitation

§ 4.1 Calculation by Comptroller General.

(a) Expenditure limitations for the use of communications media are set forth in paragraphs (1), (2), and (3) of section 104(a) of the Act and are applicable to Federal candidates in accordance with the provisions of such paragraphs. The general limitation is that such expenditures may not exceed a total amount arrived at by multiplying 10 cents by the voting age population of the geographical area in which the election is held, or \$50,000, whichever is greater, and that spending for the use of broadcasting stations may not exceed 60 percent of such total allowable amount.

(b) The total allowable amount shall be increased for each calendar year by the percentage, if any, by which the Consumer Price Index (all items—U.S. city average) for the preceding 12 months increased over the index for calendar year 1970. The Secretary of Labor shall determine this percentage increase at the beginning of each calendar year, certify it to the Comptroller General, and publish it in the FEDERAL REGISTER.

(c) The Secretary of Commerce, on or before April 7, 1972, and during the first week of January 1973 and every subsequent year, shall certify to the Comptroller General and publish in the FEDERAL REGISTER an estimate of the voting age population of each State, including Puerto Rico and the District of Columbia, and each congressional district for the last calendar year ending before the date of certification.

(d) The Comptroller General, as soon as practicable after he has received such certifications from the Secretary of Labor and the Secretary of Commerce, shall calculate, on the basis of the certifications received, the amount of the expenditure limitation for each State, congressional district, and the Nation, publish the amounts in the FEDERAL REGISTER, and otherwise make them available to all candidates, political committees, and other interested persons. The amounts shall apply throughout the calendar year in which the calculations are made and thereafter to any special election which may be held before new calculations have been made.

§ 4.2 Separate limitation for each election.

Each primary, general, special, or runoff election is a separate election, and a new expenditure limitation is applicable thereto. The limitation in each election

is the amount calculated under § 4.1 for the applicable geographical area and calendar year. No amount shall be carried over from one election to another.

§ 4.3 "Expenditure" and "spend"; when deemed to take place; election attributed to.

(a) Any expenditure or spending for the use of communications media subject to this subchapter shall be charged against the amount of the expenditure limitation applicable to the election in connection with which the particular communications medium is actually used, regardless of when payment therefor is made and regardless of the date of any contract or promise.

(b) Any expenditure or spending for the use of communications media, when the use occurs in whole or in part on or after April 7, 1972, the effective date of the Act, shall be reported to the appropriate supervisory officer and charged against the expenditure limitation applicable to the election in connection with which the particular communications medium is used, regardless of whether or not the use is paid for or contracted for prior to that date. However, no charge against the limitation shall be made when such use occurs entirely before the effective date of the Act, regardless of whether or not the use is paid for on or after the effective date.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, such expenditures shall be reported to the appropriate supervisory officer when made in the same manner as for other expenditures and on the reporting form prescribed by such supervisory officer under Title III of the Federal Election Campaign Act of 1971.

§ 4.4 Expenditures for or on behalf of a Federal candidate.

(a) Any expenditure by a candidate, a political committee, or any other person, whether or not the person making the expenditure is authorized by the candidate to do so, for the use of communications media on behalf of the candidacy of any legally qualified candidate for nomination or election to Federal elective office is deemed, for the purposes of section 104 of the Act and this part, to be made by the Federal candidate. A use of communications media is deemed to be "on behalf of the candidacy" of any such candidate if the use (1) involves his participation by voice or image or advocates his candidacy; or (2) identifies the candidate, directly or by implication, or advocates his candidacy. Such expenditures by or on behalf of any legally qualified candidate for the office of Vice President are deemed, for the purposes of section 104 of the Act and this part, to be spent by the candidate for the office of President with whom he is running.

(b) The amount of any such expenditure under paragraph (a) of this section shall be charged against the applicable expenditure limitation of the candidate under section 104(a) of the Act and this part. Under section 104(b) of the Act and

§ 4.11 of this subchapter, no person may make a charge for such use of any newspaper, magazine, or outdoor advertising facility unless the candidate (or his specially authorized agent) certifies in writing that payment of the charge will not violate the candidate's applicable expenditure limitation under section 104(a) and this part. The same prohibition on charges for the use of broadcasting stations is contained in section 104(c) of the Act, subject to regulations or guidelines by the Federal Communications Commission.

§ 4.5 Amounts spent urging candidate's defeat or derogating his stand.

(a) An expenditure for the use of communications media opposing or urging the defeat of a Federal candidate, or derogating his stand on campaign issues, shall not be deemed to be an expenditure for the use of communications media on behalf of any other Federal candidate and shall not be charged against any other Federal candidate's applicable expenditure limitation under section 104(a) of the Act and this part, unless such other Federal candidate has directly or indirectly authorized such use or unless the circumstances of such use taken as a whole are such that consent may reasonably be imputed to such other candidate.

(b) In the case of any expenditure under paragraph (a) of this section, the person selling the space or time for the use of the particular communications medium shall determine the identity and organizational affiliation, if any, of the person making the expenditure and shall require such person to state in writing whether or not he is authorized by any Federal candidate to make such expenditure, or whether any Federal candidate has given his consent to it.

(c) If the person making the expenditure states in writing that any such candidate has authorized or consented to the expenditure then no person may make any charge for such use, unless the candidate (or his specially authorized agent) certifies in writing, in accordance with § 4.11, that payment of such charge will not violate his applicable expenditure limitation.

(d) If the person making the expenditure states in writing that no Federal candidate has authorized or consented to the expenditure, then a charge may be made for such use, provided that the person selling the space or time has taken reasonable precautions under the particular circumstances to verify the identity and affiliation of such person and the accuracy of the written statement. Any reasonable doubt as to whether authorization or consent to the expenditure may be imputed to a Federal candidate should be resolved by the person selling the space or time in favor of requiring a certification from a Federal candidate or his authorized agent, as required under § 4.11, before making the charge.

(e) Any advertisement or use under paragraph (d) of this section shall contain, conspicuously displayed, the name

and address of the person making the expenditure, and, in the case of an organization, the name of the individual authorizing the expenditure. Such advertisement or use shall also contain, conspicuously displayed, a statement that the use is not authorized, directly or indirectly, by any Federal candidate and that no Federal candidate is responsible for any activities of the person making the expenditure.

(f) The person selling the space or time shall keep complete records of the transaction, including a copy of the advertisement and the original written statement, for a period of 2 years after the date thereof, and, on request from the appropriate supervisory officer, shall make such records and statement available for audit and inspection by the supervisory officer or his authorized representative.

(g) Any willfully false or fraudulent statements or representations in such a statement will subject the person making the same to the criminal penalties provided by section 1001 of title 18, United States Code.

§ 4.6 Allocation of expenditures among candidates.

(a) Whenever a use of a particular communications medium is by or on behalf of two or more candidates for Federal elective offices, the amount attributable to the expenditure limitation of each candidate shall be the amount agreed upon by the candidates involved in advance of the use and shown on the certification required under sections 104(b) and 104(c) of the Act and § 4.11. Such allocation must be based on reasonable standards. Any allocation under this paragraph shall be reported by each candidate or committee to the appropriate supervisory officer as an expenditure on the prescribed form under Title III of the Federal Election Campaign Act of 1971, and each candidate or committee shall retain for audit all documents supporting the allocation for the period of time required by the supervisory officer.

(b) Whenever a use of a particular communications medium is by or on behalf of one or more candidates for Federal elective office and also one or more candidates for State or local office, allocation must be made of a portion of the costs to the limitation prescribed in section 104(a) of the Act for each such Federal candidate. In so allocating, the same considerations set forth in paragraph (a) of this section shall apply. If the amount so allocated to the Federal candidate's limitation exceeds the cost to him or his organization for such use, the difference must be treated as a contribution in kind to the candidate by the individual or organization bearing that cost.

(c) The person selling space or time for use of the particular communications medium involved shall require a certification, as prescribed in § 4.11, from each Federal candidate (or his specially authorized agent) to the effect that payment of such portion of the charge as is allocated to such candidate will not violate his spending limitation.

§ 4.7 Records of communications media expenditures.

It is the responsibility of each Federal candidate, by whom or on whose behalf there is spent any amount for the use of communications media included under this subchapter, to maintain clearly identifiable, accurate, and complete current records of such expenditures.

Subpart B—Certification Requirements for Use of Newspaper, Magazines, and Outdoor Advertising Facilities

AUTHORITY: This subpart issued under section 105, 86 Stat. 7, — U.S.C. —. Interpret or apply section 104(b), 86 Stat. 6, — U.S.C. —.

§ 4.11 Prohibition of charges without certification.

(a) No person may make any charge for the use of any newspaper, magazine, or outdoor advertising facility by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) unless the candidate, or an individual specifically authorized by the candidate in writing to do so, certifies in writing that the payment of such charge, including any agent's commission allowed the agent by the media, will not violate the expenditure limitation applicable to the candidate for the election in connection with which the newspaper, magazine, or outdoor advertising facility is used. Such a certification, which may be for a single use or for a series of uses, must be obtained from each candidate by, for whom, or on whose behalf such use is made. A joint certification, or individual certifications, showing the allocation of the total cost among the candidates as prescribed in § 4.6, must be obtained from joint users.

(b) A newspaper, magazine, or outdoor advertising facility will not be in violation of the Act or this subchapter by charging for the use of its facility if it receives (1) a certification from a Federal candidate or his specially authorized agent in accordance with § 4.12, or (2) a written statement from a person making an expenditure under § 4.5, provided that all of the requirements of § 4.5 are complied with.

§ 4.12 Form of certification and authorization.

(a) Each certification required under § 4.11 shall state the name and address of the newspaper, magazine, or outdoor advertising business or operator, the date or dates proposed to be used, a brief description of the advertisement or use, the name and political affiliation of the candidate, the office sought and the election involved, the rate and total amount of the charge, the signature of the candidate (or of the individual specifically authorized by the candidate in writing to do so), and the date of the signature. In addition, the certification shall state that payment of the total charge will not violate the candidate's applicable expenditure limitation under paragraphs (1), (2), or (3) of section 104(a) of the Act. The certification need not be in any special form.

(b) The original certification shall be given to the person making the charge

before the order or agreement for the particular use is accepted. One copy of the certification shall be retained by the candidate or such authorized person. If there is a change in the amount of the charge an amended certification shall be required.

(c) Each authorization by a candidate to another person or persons to make certifications on behalf of the candidate shall state the name, address, and organizational affiliation of each authorized individual, the name of the candidate, the office sought, and the election involved, and any restrictions or limitation imposed, and it shall be signed and dated by the candidate. The authorized individual shall provide a copy of the authorization to the person making the charge together with the original certification.

(d) Every newspaper, magazine, or outdoor advertising business or operator shall keep all certifications and copies of authorizations made by or for each legally qualified candidate for Federal elective office, together with an appropriate notation showing the use actually made by each such candidate, the date or dates used, and the charges made, if any. Such records shall be retained for a period of 2 years.

(e) Any person who willfully makes a false or fraudulent certification or authorization under this subpart will be subject to the criminal penalties provided by section 1001 of title 18, United States Code.

Subpart C—Outdoor Advertising Facilities

AUTHORITY: This subpart issued under section 105, 86 Stat. 7, — U.S.C. —. Interpret or apply sections 102(1) and 104(a), 86 Stat. 3, 5, — U.S.C. —.

§ 4.21 Apportionment when used in more than one election.

When an outdoor advertising facility is used by or on behalf of a Federal candidate in connection with more than one election (e.g., in both a primary and a general election) the expenditure for the facility shall be apportioned between such elections on the basis of the number of days such facility is used for each such election.

Subpart D—Telephone Use to Communicate with Potential Voters

AUTHORITY: This subpart issued under section 105, 86 Stat. 7, — U.S.C. —. Interpret or apply sections 102(1) and 104(a), 86 Stat. 3, 5, — U.S.C. —.

§ 4.31 Applicability.

(a) An expenditure by or on behalf of a Federal candidate for telephones is deemed to be for the use of communications media and is to be charged against the candidate's applicable spending limitation under section 104(a) of the Act and this part, but only if it is for either the costs of telephones, paid telephonists, or automatic telephone equipment obtained for the specific purpose of communicating by general canvass methods with potential voters, excluding opinion polls which are conducted without identi-

fication of sponsorship by or on behalf of a Federal candidate. Other telephone costs of a candidate, his staff, and his authorized committees for campaign purposes are excluded.

(b) Any telephone costs paid for by an individual volunteer for use of a telephone by him shall not be charged to the candidate. For the purposes of this subpart, any individual, other than a candidate or a member of his paid staff or the paid staff of an authorized committee, who incurs telephone costs for the use of a telephone by such individual, is considered to be a volunteer, and his costs are excluded from the candidate's spending limitation.

Subpart E—Broadcasting Stations

AUTHORITY: This subpart issued under section 105, 86 Stat. 7, — U.S.C. —. Interpret or apply sections 102(2) and 104(a), 86 Stat. 4, 5, — U.S.C. —.

§ 4.41 Charges by broadcasting stations to Federal candidates.

(a) Expenditures for the use of broadcasting stations by or on behalf of the candidacy of a Federal candidate, for the purposes of section 104(a) of the Act and this subchapter, include not only the direct charges of such broadcasting station, but also agent's commissions allowed the agent by the station.

(b) Such expenditures, for the purposes of section 104(a) of the Act and this subchapter, are limited to time charges for the use of broadcasting stations and do not include production costs or incidental costs whether charged by the station or by any other person. See also the regulations or guidelines of the Federal Communications Commission issued under the Act.

PART 5—ADMINISTRATION AND PENALTIES

- Sec.
 5.1 Administration by supervisory officers.
 5.2 Reporting communications media expenditures.
 5.3 Retained copies and records.
 5.4 Referrals to Attorney General.
 5.5 Penalties.

AUTHORITY: The provisions of this Part 5 issued under section 105, 86 Stat. 7, — U.S.C. —. Interpret or apply sections 102, 103(b), 104(a), 104(b), 105, and 106, 86 Stat. 3, 4, 5, 6, 7, and 8, — U.S.C. —.

§ 5.1 Administration by supervisory officers.

It shall be the responsibility of each supervisory officer to administer the regulations contained in this subchapter with respect to candidates under his jurisdiction, namely: (a) The Clerk of the House of Representatives with respect to candidates for the office of Representative in, or Resident Commissioner or Delegate to, the Congress of the United States; (b) the Secretary of the Senate with respect to candidates for the office of Senator in the Congress of the United States; and (c) the Comptroller General with respect to candidates for nomination or election to the office of President or Vice President of the United States and in any other case.

§ 5.2 Reporting communications media expenditures.

All expenditures made for the use of communications media on behalf of the candidacy of any Federal candidate in each election shall be reported to the appropriate supervisory officer by the candidate, or by the person or the political committee making the expenditure on behalf of the candidate, as a part of the reports of receipts and expenditures required under section 304 or section 305 of Title III of the Federal Election Campaign Act of 1971. See Subchapter B of this chapter concerning reports required to be filed with the Comptroller General.

§ 5.3 Retained copies and records.

(a) Each Federal candidate, each treasurer of a political committee, and any other person, who is required to report communication media expenditures to the appropriate supervisory officer under § 5.2, shall preserve a copy of each such report for the period of time prescribed by the appropriate supervisory officer. Each such person shall maintain records on the matters required to be reported, including vouchers, worksheets, and receipts, which will provide in sufficient detail the necessary information and data from which the reports and statements may be verified, explained or clarified, and checked for accuracy and completeness, and shall keep such records available for audit, inspection, and examination by the supervisory officer, or his authorized representatives, for the same period of time after the filing of the reports or statements, or any amendments thereto, based on the information which they contain.

§ 5.4 Referrals to Attorney General.

The appropriate supervisory officer, if he determines that there has been an apparent violation of law, shall refer the matter to the Attorney General of the United States for appropriate action.

§ 5.5 Penalties.

Any person who willfully and knowingly violates any provision of sections 103(b), 104(a), or 104(b) of the Act or any regulation of this subchapter shall be punished by a fine of not more than \$5,000 or by imprisonment of not more than 5 years, or both.

PART 6—EXPENDITURE LIMITATIONS FOR CANDIDATES FOR PRESIDENT AND VICE PRESIDENT

Subpart A—General

Sec.

6.1 Purpose and scope.

Subpart B—Prenomination Expenditures

6.11 Determination of who is a candidate.

6.12 Period of candidacy.

6.13 Expenditure limitations in each State.

6.14 Apportioning amounts for the use of communications media in two or more States.

Subpart C—Postnomination Expenditures

6.21 Expenditure limitation in presidential general election.

AUTHORITY: This part issued under sections 104(a) (3) (c) and 105, 86 Stat. 5, 7, —

U.S.C. —. Interpret or apply section 104(a), 86 Stat. 5, — U.S.C. —.

Subpart A—General

§ 6.1 Purpose and scope.

(a) This part is issued by the Comptroller General with respect to candidates for nomination or election to the office of President or Vice President of the United States.

(b) Subpart B applies to candidates for presidential nomination and to expenditures incurred on behalf of their candidacies for such nomination. Subpart C applies to candidates for President and Vice President after nomination and with respect to the general election.

Subpart B—Prenomination Expenditures

§ 6.11 Determination of who is a candidate.

For the purposes of section 104(a) (3) of the Act and this subpart, an individual is considered to be a candidate for presidential nomination if he (or any other person on his behalf) makes an expenditure for the use of any communications medium on behalf of his candidacy for any political party's nomination for election to the office of President. The foregoing sentence applies regardless of whether the individual has made a public announcement of his candidacy. For the purposes of the Act, section 315 of the Communications Act of 1934, and this subchapter, a candidate for presidential nomination shall be considered a legally qualified candidate for public office.

§ 6.12 Period of candidacy.

(a) For the purpose of section 104(a) (3) of the Act and this subpart, an individual is considered to be a candidate for presidential nomination during the period—

(1) Beginning on the date on which he (or any other person on his behalf) first makes an expenditure under § 6.11, or beginning on the first day of January of the year in which the presidential election is to be held, whichever is later; and

(2) Ending on the date on which the particular political party nominates a candidate for the office of President.

(b) Any individual who is seeking the presidential nomination of more than one political party is considered to be a candidate for presidential nomination until he is nominated by one of those parties. Thereafter, he is considered to be a candidate for such office in the general election under section 104(a) (1) of the Act and under Subpart C.

(c) During 1972, no individual is considered to be a candidate for presidential nomination prior to April 7, 1972, the effective date of the Act. Nonetheless, any expenditure for the use of communications media, when such use occurs on or after April 7, 1972, shall be reported and charged against the expenditure limitation applicable to the election in which used, regardless of whether or not the use is paid for or contracted for prior to April 7, 1972.

§ 6.13 Expenditure limitations in each State.

(a) No candidate for presidential nomination may spend, for the use of communications media (or broadcasting stations) in a State, a total amount in excess of the amounts which are allowable for such purposes to a candidate for the U.S. Senate from the State (or for Delegate or Resident Commissioner in the case of the District of Columbia or the Commonwealth of Puerto Rico).

(b) The foregoing expenditure limitation applies in a State holding a convention or caucus, as well as in a State holding a primary election, for the selection of delegates to a national nominating convention. In the case of an expenditure for nationwide or regional use of a communications medium, see § 6.14. The limitation in any State shall continue to apply during the period after the selection of delegates until the conclusion of the particular party's national nominating convention.

§ 6.14 Apportioning amounts for the use of communications media in two or more States.

This section applies only to expenditures by or on behalf of candidates for presidential nomination for the use of a communications medium reaching two or more States.

(a) If a particular use of a communications medium is intended by the candidate to reach persons in only one State in which the candidate is actively seeking to influence the results of a primary election or the selection of delegates by State convention or caucus, then the total expenditure shall be charged against the candidate's limitation in that State, and no apportionment shall be made.

(b) If, at the time the medium is used, the selection of all delegates to the national nominating convention of a political party has not been completed, the total amount of an expenditure for the use of a communications medium which is intended by the candidate to reach persons in two or more States shall be apportioned only among those States reached by the medium in which the candidate is actively seeking to influence the results of a primary election or the selection of delegates by State convention or caucus.

(c) If, at the time the medium is used, the selection of all delegates to the national nominating convention of a political party has been completed, the total amount of an expenditure for the use of a communications medium in two or more States shall be apportioned among all the States reached by the medium and attributed to the candidate's expenditure limitation in each such State.

(d) The total amount of the expenditure in every case under paragraph (b) or (c) of this section must be apportioned. For purposes of calculating the amounts to be apportioned to the candidate's expenditure limitation in each State which is included under paragraph (b) or (c) of this section, each such State's portion of the total expendi-

ture shall be in the same ratio as the number of persons who can reasonably be expected to be reached by the medium in that State bears to the total number of persons who can reasonably be expected to be reached by the medium in all of such States. The apportionment shall be calculated for each communications medium as follows—

(1) When it enters into an agreement for a time purchase by or on behalf of a candidate for presidential nomination, the broadcasting station or network shall inform the purchaser of the percentage of the total amount attributed to each State which is included under paragraph (b) or (c) of this section, based on the percentage of its total coverage in each State receiving "primary service" (as defined by FCC standards) from each station or network. For TV stations, the Grade B contour shall be used. For FM stations, the 1 mv/m contour shall be used. For AM stations, the percentage shall be related to daytime and nighttime coverage. During 1972, the foregoing percentages may be estimated by the station or network on the basis of the best information available.

(2) When it enters into an agreement for the purchase of space in a newspaper or magazine by or on behalf of such a candidate, the publication shall inform the purchaser of the percentage of the total amount attributed to each State which is included under paragraphs (b) or (c) of this section, based on the percentage of its total coverage in each State according to its most recent circulation figures.

(3) If telephone costs are included within the spending limitation of a candidate for presidential nomination, pursuant to the provisions of Subpart D, Part 4, of this subchapter, and if such telephones are used to communicate with potential voters in two or more States, such costs shall be apportioned among such States on the basis of the number of persons in each such State who are reached by such telephone use.

(4) When it enters into an agreement for the use of outdoor advertising facilities, the seller or lessor of the space shall inform the purchaser of the percentage of the total amount attributable to each State which is included under paragraphs (b) or (c) of this section, based on its total coverage in each State.

(e) Any apportionment under this section shall be made and reported by each candidate for presidential nomination, or by the political committee or other person making the expenditure, to the Comptroller General as a part of the reports of receipts and expenditures required under title III of the Federal Election Campaign Act of 1971 and under Subchapter B of this chapter. All documents supporting the apportionment shall be retained for a period of 4 years by the person filing such a report.

(Sec. 104(a)(3)(C), 86 Stat. 5. — U.S.C. —)

Subpart C—Postnomination Expenditures

§ 6.21 Expenditure limitation in presidential general election.

(a) Under section 104(a)(1) of the Act and this subpart, no legally qualified candidate for the office of President of the United States may—

(1) Spend for the use of communications media on behalf of his candidacy in the general election for such office a total amount in excess of the expenditure limitation for the Nation as a whole, as calculated by the Comptroller General under Part 4 of this subchapter, or

(2) Spend for the use of broadcasting stations on behalf of his candidacy in such election a total amount in excess of 60 percent of the amount calculated under subparagraph (1) of this paragraph with respect to such election.

(b) Amounts spent for the use of communications media by or on behalf of any legally qualified candidate for the office of Vice President of the United States shall, for the purpose of this section, be deemed to have been spent by the candidate for the office of President of the United States with whom he is running.

SUBCHAPTER B—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

PART 11—SCOPE AND DEFINITIONS

SUBPART A—SCOPE

Sec.

11.1 Scope.

Subpart B—Meaning of Terms Used in This Subchapter

- 11.11 Election.
- 11.12 Federal Office.
- 11.13 Candidate or Federal Candidate.
- 11.14 Political committee.
- 11.15 Contribution.
- 11.16 File, filed, or filing.
- 11.17 Expenditure.
- 11.18 Supervisory officer.
- 11.19 Person.
- 11.20 State.
- 11.21 Act.
- 11.22 Comptroller General.
- 11.23 Director.
- 11.24 Office.

AUTHORITY: The provisions of this Part 11 issued under section 308(a)(13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 301, 86 Stat. 11, — U.S.C. —.

Subpart A—Scope

§ 11.1 Scope.

This subchapter is issued by the Comptroller General of the United States in his capacity as a supervisory officer under title III of the Federal Election Campaign Act of 1971 (Public Law 92-225) and is applicable to campaigns for nomination or election to the offices of President and Vice President of the United States. It is to be read together with the regulations issued by the Comptroller General as Subchapter A of this chapter and with the guidelines and regulations issued by the Federal Communications

Commission under title I of the Act, as well as with the regulations issued by the other supervisory officers under title III of the Act, namely, the Secretary of the Senate with respect to senatorial campaigns and the Clerk of the House of Representatives with respect to congressional campaigns.

Subpart B—Meaning of Terms Used in This Subchapter

§ 11.11 Election.

"Election" means (a) a general, special, primary, or runoff election, (b) a convention or caucus of a political party held to nominate a candidate, (c) a primary election held for the selection of delegates to a national nominating convention of a political party, (d) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (e) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States.

§ 11.12 Federal office.

"Federal office" means the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

§ 11.13 Candidate or Federal candidate.

"Candidate" or "Federal candidate" means an individual who seeks nomination for election, or election, to Federal office (except where the reference is specifically to a candidate for State or local office), whether or not such individual is elected, and, for purposes of this subchapter, an individual shall be deemed to seek nomination for election, or election, if he has (a) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (b) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office.

§ 11.14 Political committee.

"Political committee" means any committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding \$1,000.

§ 11.15 Contribution.

(a) "Contribution" means—

(1) A gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office or as a presidential or vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomina-

tion of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) A contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose;

(3) A transfer of funds between political committees;

(4) The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge for any such purpose; and

(5) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include services provided without compensation, by individuals volunteering a portion or all of their time on behalf of a candidate or political committee.

§ 11.16 File, filed or filing.

(a) "File," "filed," and "filing" mean with respect to reports and statements required to be filed with the Comptroller General under this subchapter: (1) Delivery to the Office of Federal Elections, General Accounting Office, 441 G Street NW., Washington, DC 20548, by the close of business of the prescribed filing date, or (2) deposit as certified airmail in an established U.S. Post Office no later than midnight of the second day next preceding the filing date. The certified mail receipt shall be retained as evidence of mailing. Documents deposited within 500 miles from Washington, D.C. need not be sent by airmail, but shall be certified. In the event the mailing deadline falls on a day on which no mail is certified, the next preceding day on which mail is certified shall be deemed the mailing date.

(b) All reports may be deposited in preprinted return envelopes supplied by the Comptroller General, bearing a declaration of contents and requesting priority handling. In the event a report is too large to be inserted in the preprinted envelope, it should be packaged separately but the whole face of the preprinted envelope may be used as a mailing label.

(c) With respect to filing of complaints pursuant to section 308(d)(1) of the Act, see Subpart B of Part 20 of this subchapter.

§ 11.17 Expenditure.

(a) "Expenditure" means—

(1) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or as a presidential and vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing

the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) A contract, promise, or agreement, whether or not legally enforceable, to make an expenditure; and

(3) A transfer of funds between political committees.

§ 11.18 Supervisory officer.

"Supervisory officer" means the Secretary of the Senate with respect to candidates for Senator; the Clerk of the House of Representatives with respect to candidates for Representative in, or Delegate or Resident Commissioner to, the Congress of the United States; and the Comptroller General of the United States in any other case.

§ 11.19 Person.

"Person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons.

§ 11.20 State.

"State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

§ 11.21 Act.

"Act" means the Federal Election Campaign Act of 1971, Public Law 92-225, enacted February 7, 1972, and effective April 7, 1972.

§ 11.22 Comptroller General.

"Comptroller General" means the Comptroller General of the United States.

§ 11.23 Director.

"Director" means the Director of the Office of Federal Elections in the U.S. General Accounting Office.

§ 11.24 Office.

"Office" means the Office of Federal Elections in the U.S. General Accounting Office.

PART 12—ORGANIZATION OF POLITICAL COMMITTEES

Sec.

- 12.1 Organization.
- 12.2 Duty of person receiving contribution for a political committee.
- 12.3 Committee funds to be segregated.
- 12.4 Account of contributions and expenditures.
- 12.5 Receipted bills for expenditures exceeding \$100.
- 12.6 Notice of committee's lack of authority from candidate.
- 12.7 Notice of availability of committee reports from Government Printing Office.
- 12.8 Publication of annual report for each political committee.

AUTHORITY: The provisions of this Part 12 issued under section 308(a)(13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 302, 86 Stat. 12, — U.S.C. —.

§ 12.1 Organization.

(a) Every political committee (as defined in § 11.14 of this subchapter) shall

have a chairman and a treasurer, who shall be separate individuals.

(b) No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of either the chairman or the treasurer thereof.

(c) No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

§ 12.2 Duty of person receiving contribution for a political committee.

Every person who receives a contribution in excess of \$10 for a political committee shall, on demand of the treasurer, and in any event within 5 days after receipt of such contribution, render to the treasurer a detailed account thereof, including the amount, the name and address, occupation, and the principal place of business, if any, of the person making such contribution, and the date on which received.

§ 12.3 Committee funds to be segregated.

All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

§ 12.4 Account of contributions and expenditures.

(a) *Contributions.* (1) The treasurer of a political committee shall keep a detailed and exact account of all contributions made to or for such committee, including the full name, residential mailing address, occupation, and the principal place of business, if any, of every person making a contribution in excess of \$10, and the date and amount thereof. The term "full name" means the identification of the person usually given for business and legal purposes. The term "occupation" means title, if any, or type of work. The term "principal place of business if any" means the full name of employer, or organization if self-employed, and city of employment or self-employment.

(2) The treasurer shall use his best efforts to obtain the required information, and he shall keep a complete record of his efforts to do so. It is the responsibility of the treasurer to make full and complete reports as prescribed by the Act and this subchapter.

(b) *Expenditures.* The treasurer of a political committee shall keep a detailed and exact account of all expenditures made by or on behalf of such committee, including the full name, business mailing address, occupation, and principal place of business, if any, of every person to whom any expenditure is made, the date and amount thereof, and the name, address, and office sought by, each Federal candidate on whose behalf such expenditure was made.

§ 12.5 Receipted bills for expenditures exceeding \$100.

The treasurer shall obtain and keep a receipted bill, stating the particulars, for

every expenditure made by or on behalf of a political committee in excess of \$100, and for expenditures in lesser amounts if the aggregate amount to the same person during the calendar year exceeds \$100. In lieu of a bill received by the person to whom the expenditure is made, the treasurer may keep the canceled check or checks showing payment of the bill, together with the bill, invoice, or a contemporaneous memorandum of the transaction, stating the particulars of the expenditure.

§ 12.6 Notice of committee's lack of authority from candidate.

Any political committee which solicits or receives contributions or makes expenditures on behalf of any Federal candidate that is not authorized in writing by such candidate to do so shall include a notice on the face or front page of all literature and advertisements published in connection with such candidate's campaign by such committee or on its behalf stating that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee.

§ 12.7 Notice of availability of committee reports from Government Printing Office.

Any political committee shall include on the face or front page of all literature and advertisements soliciting funds the following notice:

A copy of our report filed with the appropriate supervisory officer is (or will be) available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

§ 12.8 Publication of annual report for each political committee.

(a) The Comptroller General shall compile and furnish to the Public Printer, not later than the last day of March of each year, an annual report for each political committee which has filed a report with him under this subchapter during the period from March 10 of the preceding calendar year through January 31 of the year in which such annual report is made available to the Public Printer. Each such annual report shall contain—

(1) A copy of the statement of organization of the political committee required under section 303 of the Act and Part 13 of this subchapter, together with any amendments thereto; and

(2) A copy of each report filed by such committee under section 304 of the Act and Part 14 of this subchapter from March 10 of the preceding year through January 31 of the year in which the annual report is so furnished to the Public Printer.

(b) The Public Printer shall make copies of such annual reports available for sale to the public by the Superintendent of Documents as soon as practicable after they are received from the Comptroller General.

(c) Each volume of such annual reports shall have conspicuously displayed on the front thereof a notice that any information copied from the report shall

not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose.

PART 13—REGISTRATION OF POLITICAL COMMITTEES

Sec.

- 13.1 Registration of political committees with Comptroller General.
- 13.2 Forms and filing.
- 13.3 Changes in information.
- 13.4 Discontinuance of registration.
- 13.5 Identification number.

AUTHORITY: The provisions of this Part 13 issued under section 308(a) (13), 86 Stat. , — U.S.C. —. Interpret or apply section 303, 86 Stat. 14, — U.S.C. —.

§ 13.1 Registration of political committees with Comptroller General.

(a) Each political committee which anticipates receiving contributions or making expenditures during a calendar year in an aggregate amount exceeding \$1,000, any portion of which will be expended for the purpose of influencing the nomination or election of any candidate or candidates to the office of President or Vice President of the United States, shall file a statement of organization with the Comptroller General within 10 days after the effective date of this subchapter, within 10 days after the date of its organization, or within 10 days after the date on which the committee has information which causes it to anticipate receiving such contributions or making such expenditures exceeding \$1,000, whichever is later.

(b) Any political committee which supports candidates who are under the jurisdiction of more than one supervisory officer is required to register with each such supervisory officer. Such a committee should consult also the regulations issued by the Secretary of the Senate and by the Clerk of the House of Representatives. No political committee which is included within paragraph (a) of this section shall be excused from filing a statement of organization with the Comptroller General by reason of being required to file also with another supervisory officer.

(c) During 1972, the first year during which the Act is effective, the term "calendar year," as used in section 303 of the Act and in this part, shall be considered to mean only the period beginning on April 7, 1972, and ending on December 31, 1972. No statement of organization is required from any political committee which does not anticipate receiving contributions or making expenditures exceeding \$1,000 on or after April 7, 1972.

§ 13.2 Forms and filing.

(a) The statement of organization shall be filed on C.G. Election Form 1, which may be obtained from the Office of Federal Elections, U.S. General Accounting Office, 441 G Street NW., Washington, DC 20548. The statement shall include the following:

(1) The name and address of the committee.

(2) The names, addresses, and relationships of affiliated or connected orga-

nizations (see paragraph (b) of this section).

(3) The area, scope, or jurisdiction of the committee.

(4) The name, address, and position of the custodian of books and accounts.

(5) The name, address, and position of other principal officers, including officers and members of the finance committee, if any.

(6) The name, address, office sought, and party affiliation of (i) each candidate for the office of President or Vice President of the United States whom the committee is supporting and (ii) each candidate whom the committee is supporting for nomination or election to any other Federal office or to any public office whatever; and, additionally, if the committee is supporting the entire ticket of any party, the name of the party.

(7) A statement whether the committee is a continuing one.

(8) The disposition of residual funds which will be made in the event of dissolution.

(9) A listing of all banks, safety deposit boxes, or other repositories used.

(10) A statement of the reports required to be filed by the committee with State or local officers, and, if so, the names, addresses, and positions of such persons; and

(11) Such other information as shall be required by the Comptroller General from time to time.

(b) "Affiliated or connected organizations" includes but is not limited to (1) an organization which organized the reporting committee primarily for the purpose of influencing the nomination or election of candidates for Federal office; or (2) an organization whose primary purpose is to support the reporting committee; or (3) an organization whose membership is generally similar to that of the reporting committee.

(c) The statement of organization required by the Comptroller General under this part shall be filed with the Office of Federal Elections, U.S. General Accounting Office, 441 G Street NW., Washington, DC 20548. See definition of "filed" in Part 11 of this subchapter.

§ 13.3 Changes in information.

Any change in information previously submitted in a statement of organization, especially when any change occurs with regard to the candidates for the office of President or Vice President supported by the committee, shall be reported to the Comptroller General within 10 days following the date of the change, and shall be signed and verified by oath or affirmation in the same manner as the original statement.

§ 13.4 Discontinuance of registration.

Any committee which, after having filed one or more statements of organization with the Comptroller General, disbands or determines that it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$1,000, shall so notify the Comptroller General. Such notification shall include a statement as to the disposition of residual funds if the committee is disbanding.

§ 13.5 Identification number.

Upon receipt of a statement of organization under this part, the Office of Federal Elections shall assign an identification number to the statement, acknowledge receipt thereof, and notify the political committee of the number assigned. This identification number shall be entered by the political committee on all subsequent reports or statements filed with the Comptroller General under the Act, as well as on all communications concerning such reports or statements.

PART 14—REPORTS BY POLITICAL COMMITTEES AND CANDIDATES TO THE COMPTROLLER GENERAL

Sec.	
14.1	Filing requirements.
14.2	Form and contents.
14.3	Uniform identity of contributors.
14.4	Preservation of records of proceeds of events.
14.5	Disclosure of receipt and consumption of contributions in kind.
14.6	Filing dates and periods covered.
14.7	Time and manner of filing.
14.8	Exemptions from preelection and pre-national convention reporting.
14.9	Waiver of duplicate filings.
14.10	Cumulative reports.
14.11	Allocation of expenditures between candidates.

AUTHORITY: The provisions of this Part 14 issued under section 308(a) (13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 304, 86 Stat. 14, — U.S.C. —.

§ 14.1 Filing requirements.

(a) Reports of receipts and expenditures under section 304(a) of the Act are required to be filed with the Comptroller General by—

(1) Every candidate for nomination or election to the office of President or Vice President of the United States.

(2) Every political committee (by its treasurer) which is required to file a statement of organization with the Comptroller General under Part 13 of this subchapter, unless such committee is relieved of this reporting obligation under the provisions of § 16.3 of this subchapter.

(b) Each political committee which has filed one or more reports under this part shall continue to file such reports with the Comptroller General until such committee notifies the Comptroller General that it has disbanded or has determined that it will no longer receive contributions or make expenditures during any calendar year in an aggregate amount exceeding \$1,000, as required under § 13.4 of this subchapter.

§ 14.2 Form and contents.

(a) Reports of receipts and expenditures required under this part shall be filed by such candidates on C.G. Election Form 2, and by such committees on C.G. Election Form 3. Such forms may be obtained from the Office of Federal Elections, U.S. General Accounting Office, 441 G Street NW., Washington, DC 20548.

(b) Each report by such committee or candidate under this part (except sub-

paragraph (12) of this paragraph) shall disclose—

(1) The amount of cash on hand at the beginning of the reporting period, including, but not limited to, money, balances on deposit in banks and savings and loan institutions, checks, negotiable money orders, and other paper commonly accepted by a bank in a deposit of cash, and cash funds in other repositories;

(2) The full name, residence mailing address, occupation, and principal place of business, if any (as defined in § 12.4 of this subchapter), of each person who has made one or more contributions to or for such committee or candidate (including a separate itemized account for the purchase of tickets for fundraising events, such as dinners, luncheons, rallies, and similar events held to raise funds for the committee or candidate) during the reporting period in an amount or value in excess of \$100, or within the calendar year in an aggregate amount or value in excess of \$100, together with the amount and date of such contributions;

(3) The total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under subparagraph (2) of this paragraph;

(4) The name and mailing address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds in any amount during the reporting period, together with the amounts and dates of all transfers;

(5) Each loan to or from any person during the reporting period in an amount or value in excess of \$100, or within the calendar year in an aggregate amount or value in excess of \$100, together with the full names and mailing addresses, occupations, and the principal places of business, if any, of the lenders and the endorsers, if any, and the date and amount of such loans;

(6) The total amount of proceeds from (i) the sale of tickets to each dinner, luncheon, rally, and other fund raising event; (ii) mass collections made at such events; and (iii) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(7) Each contribution, rebate, refund, or other receipt in excess of \$100 received during the reporting period and not otherwise listed under subparagraphs (2) through (6) of this paragraph;

(8) The total sum of all receipts by or for such committee or candidate during the reporting period and the calendar year;

(9) The full name and business mailing address, occupation, and the principal place of business, if any, of each person to whom expenditures have been made by or on behalf of such committee or candidate within the reporting period in an amount or value in excess of \$100, together with the amount, date, and purpose of each such expenditure and the name and address of, and office sought

by, each candidate on whose behalf such expenditures was made, and a separate itemized account of communications media expenditures (see Subchapter A) in any amount during the reporting period;

(10) The full name and mailing address, occupation, and the principal place of business, if any, of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of \$100 has been made within the reporting period, and which is not otherwise reported, including the amount, date, and purpose of such expenditure;

(11) The total sum of expenditures made by or on behalf of such committee or candidate during the reporting period and the calendar year;

(12) The amount and nature of debts and obligations owed by or to the committee (not required on a candidate's report), and a continuous reporting of its debts and obligations after the election on separate schedules in accordance with the terms prescribed in Part 16 of this subchapter until such debts and obligations are extinguished;

(13) Such other information as shall be required by the Comptroller General from time to time.

§ 14.3 Uniform identity of contributors.

(a) Each contributor of an amount in excess of \$100 shall be identified by full name, residence mailing address, occupation, and principal place of business, if any. See Part 12 of this subchapter regarding the meaning of the foregoing terms and the requirements imposed on the committee or candidate to obtain such information if it is missing from the contribution. If a contributor's name or address is known to have changed since an earlier contribution during the calendar year, the exact name or address previously used shall be noted with each subsequent entry.

(b) In each case when a contribution received from a person in a reporting period is added to the previously reported unitemized contributions from the same contributor and the aggregate exceeds \$100 within the calendar year, the name, address, occupation, and principal place of business, if any, of that contributor shall then be listed on the prescribed reporting forms.

(c) In determining the aggregate of a person's contributions, all such contributions from the same donor shall be listed under the same name, if possible.

§ 14.4 Preservation of records of proceeds of events.

The treasurer of each political committee and each candidate shall keep full and complete records of proceeds from the sale of tickets and mass collections at each dinner, luncheon, rally, and other fund-raising events, and such records shall include the date, location, and nature of each event. He shall also keep full and complete records of the proceeds from the sale of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature and similar materials, and such records shall reflect the cost of the items to the com-

mittee, the sale price, and the total volume sold of each general category of item. Such records shall be preserved for a period of 4 years.

§ 14.5 Disclosure of receipt and consumption of contributions in kind.

Each contribution in kind shall be declared at fair market value and reported on the appropriate schedule of receipts, identified as to its nature and listed as a "contribution in kind." The total amount of goods and services contributed in kind shall be deemed to have been consumed in the reporting period. Each such contribution shall be declared as an expenditure at the same fair market value and reported on the appropriate expenditure schedule, identified as to its nature and listed as a "contribution in kind."

§ 14.6 Filing dates and periods covered.

(a) Reports of receipts and expenditures required under this part shall be filed on March 10, June 10, September 10, and January 31, for each calendar year and on the 15th and fifth days next preceding each presidential primary and general election and national nominating convention. The reports shall be cumulative and each report will cover the period from the closing date of the previous report filed. For example, the periodic reports filed on March 10, June 10, September 10, and January 31 will normally be complete as of the close of the last day of the preceding month, except when a preelection report falls between. In that case, the next periodic report would cover only the period after the intervening report closing date.

(b) Reports of receipts and expenditures due on 15th day next preceding such an election or convention shall be complete as of midnight of the 22d day next preceding the election or convention, and such reports due on the fifth day next preceding such an election or convention shall be complete as of midnight of the 12th day next preceding the election or convention. Any contribution of \$5,000 or more (including a transfer of funds from another candidate or committee), which is received after the closing date for the last report before an election or convention, shall be separately reported so as to reach the Comptroller General within 48 hours after receipt of such contribution. Such contribution shall be reported to the Comptroller General by hand delivery or by telegram (most expeditious class of service), and such contribution shall also be reported in the next report filed under this part.

(c) No report is required to be filed under this part before the effective date of the Act (April 7, 1972), and no preelection report is required if the closing date for such report precedes the effective date of the Act.

(d) During 1972, the first year during which the Act is effective, the term "calendar year," as used in section 304 of the Act and in this part, shall be considered to mean only the period beginning on April 7, 1972, and ending on December 31, 1972. No report is required to show any expenditure or contribution which oc-

curred before April 7, 1972, the effective date of the Act, except that any use of communications media (as defined in Title I of the Act and Subchapter A of this chapter), when such use occurs on or after April 7, 1972, shall be reported under this part as if it were an expenditure on the date such communications media is used. The amount paid therefor shall be charged against the candidate's expenditure limitation applicable to the election in which used, regardless of whether or not the use is paid for or contracted for prior to April 7, 1972. For further information concerning communications media spending, see Subchapter A of this chapter.

§ 14.7 Time and manner of filing.

Each report required to be filed with the Comptroller General under this part shall be filed with the Office of Federal Elections, U.S. General Accounting Office, 441 G Street NW., Washington, DC 20548, in accordance with the definition contained in § 11.16 of this subchapter.

§ 14.8 Exemptions from pre-election and prenatal convention reporting.

(a) In a presidential preference or delegate selection primary election held in any State, the following political committees shall not be required to file the reports otherwise due on the 15th and fifth days preceding such election—

(1) Any political committee which, although it supports a candidate who is entered in such primary election, has not made any contributions or expenditures, including any transfers of funds to a candidate or a political committee, for the purpose of influencing the result of such election;

(2) The national committee of any political party, unless such national committee has endorsed or financially supported a candidate in such primary election; or

(3) Any other political committee, not located in the State where such primary election is held, which has not made any contributions or expenditures, including any transfers of funds to a candidate or a political committee, for the purpose of influencing the result of such election.

(b) In a national nominating convention of a political party held to nominate candidates for the offices of President and Vice President, the following political committees shall not be required to file the reports due on the 15th and fifth days preceding such convention—

(1) The national committee of such political party, unless it has endorsed or financially supported a candidate in such convention; or

(2) Any other political committee which has not made any contributions or expenditures, including any transfer of funds to a candidate or a political committee, for the purpose of influencing the result of such convention.

§ 14.9 Waiver of duplicate filings.

If a preelection or prenatal convention report required under this part is due on or within 10 days of the specified filing date for a regular periodic re-

port required under this part, the filing of the preelection report may, at the option of the reporting committee or candidate, fulfill both requirements and, if so, shall be so indicated on the report form.

§ 14.10 Cumulative reports.

The reports required to be filed under this part shall be cumulative during the calendar year to which they relate, as required on the prescribed reporting forms. However, where there has been no change in an item reported in a previous report during such year, only the previous amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the candidate or the treasurer of the political committee shall file a statement to that effect.

§ 14.11 Allocation of expenditures between candidates.

(a) A political committee making an expenditure for or on behalf of more than one candidate for Federal, State, or local office shall allocate the expenditures among such candidates on a reasonable basis and report the allocation for each Federal candidate on the prescribed form to each appropriate supervisory officer. The treasurer shall retain for audit all documents supporting the allocation for a period of 4 years after such allocation is made.

(b) Allocations of expenditures for the use of communications media shall comply with the provisions of Subchapter A of this chapter.

PART 15—REPORTS BY OTHER PERSONS

- Sec. 15.1 Filing requirement.
- 15.2 Time and manner of filing.

AUTHORITY: The provisions of this Part 15 issued under section 308(a) (13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 305, 86 Stat. 16, — U.S.C. —.

§ 15.1 Filing requirement.

(a) Any person (other than a political committee or candidate), who makes contributions or expenditures, other than by contribution to a political committee or candidate, for or on behalf of a candidate or candidates for nomination or election to the office of President or Vice President of the United States in an aggregate amount in excess of \$100 during a calendar year, shall file a report with the Comptroller General.

(b) During 1972, the term "calendar year" in paragraph (a) of this section shall mean only the period beginning on April 7, 1972, the effective date of the Act, and ending on December 31, 1972.

(c) The term "other than by contribution to a political committee or candidate" in paragraph (a) of this section shall be deemed to exclude from the filing requirement therein only contributions made directly to a candidate or directly to a political committee. In those cases, the candidate or the committee is required to report aggregate contributions exceeding \$100 by any person. The term shall not be deemed to exclude from such filing requirement

contributions exceeding an aggregate amount of \$100 made to any committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount of \$1,000 or less, nor shall it be deemed to exclude such contributions aggregating more than \$100 made to any individual other than a candidate. In those cases, the person making the contribution aggregating more than \$100 is required to report the same to the Comptroller General under paragraph (a) of this section.

§ 15.2 Time and manner of filing.

(a) Reports required by this part shall contain the information with respect to contributions or expenditures required in Part 14 of this subchapter pertaining to committees. Persons complying with this part may use the reporting forms prescribed under Part 14, substituting the person's name wherever the identification of the reporting committee is required by the form.

(b) Reports filed in compliance with this part need not be cumulative. They shall be due on the same dates as are reports from committees under Part 14 of this subchapter except that persons complying with this part need file reports only for those reporting periods within which such independent contributions or expenditures have been made.

PART 16—FORMAL REQUIREMENTS RESPECTING REPORTS AND STATEMENTS

Sec.

- 16.1 Verification.
- 16.2 Retained copies and records.
- 16.3 Waiver of reporting requirements.
- 16.4 Manner of reporting debts, obligations, contracts, agreements and promises to make contributions or expenditures.
- 16.5 Effect of acknowledgement and filing by the Office.
- 16.6 Personal responsibility of person signing statement.

AUTHORITY: The provisions of this Part 16 issued under section 308(a) (13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 306, 86 Stat. 16, — U.S.C. —.

§ 16.1 Verification.

Each report or statement required to be filed with the Comptroller General under this subchapter by a treasurer of a political committee, a candidate, or by any other person, shall be signed and verified by the oath or affirmation of the person filing such report or statement, taken before any officer authorized to administer oaths.

§ 16.2 Retained copies and records.

(a) Every person filing a report or statement with the Comptroller General under this subchapter shall preserve a copy thereof for 4 years from the date of filing.

(b) Every candidate, political committee, or other person required to file any report or statement with the Comptroller General under this subchapter shall maintain records on the matters required to be reported, including vouchers, worksheets and papers relating to receipt,

which will provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained or clarified, and checked for accuracy and completeness, and shall keep such records available for audit, inspection, or examination by the Comptroller General, or his authorized representatives, for a period of not less than 4 years from the date of filing of the reports or statements or any amendments thereto based on the information which they contain.

§ 16.3 Waiver of reporting requirements.

(a) Any political committee required to file reports with the Comptroller General under Part 14 of this subchapter may be relieved of the duty to comply with such requirement if all of the following conditions are satisfied—

(1) The committee is a local, city, or county committee and does not conduct its activities throughout the State or in any other State; and

(2) The committee primarily supports persons seeking State or local office; and

(3) The committee does not make contributions or expenditures, including transfers of funds to any other political committee, in support of a candidate for nomination or election to the office of President or Vice President of the United States in an aggregate amount exceeding \$1,000 in a calendar year. For purposes of this section, a contribution or expenditure in support of a candidate for Vice President is considered to be made on behalf of the candidate for President with whom he is running.

(b) Upon receipt of a statement of organization from such a committee that meets all of the above conditions, the Comptroller General will grant an individual waiver and so advise the committee. Such waiver shall continue only for such time as all the above conditions are satisfied.

§ 16.4 Manner of reporting debts, obligations, contracts, agreements, and promises to make contributions or expenditures.

(a) Contributions and expenditures in the nature of debts, obligations, contracts, agreements, and promises to make contributions or expenditures that are incurred or made after April 7, 1972, the effective date of the Act, shall be continuously reported in separate schedules on the reporting forms prescribed by the Comptroller General until such debts, obligations, contracts, agreements, and promises are paid, liquidated, canceled, forgiven, or otherwise extinguished. In determining total amounts of receipts and expenditures, the amounts reported on separate schedules as provided in this section shall not be considered until actual payment is made, except that expenditures for the use of communications media shall be reported as required in § 14.2 of this subchapter, regardless of when payment is made.

(b) No debt, obligation, contract, agreement, or promise to make a contribution or an expenditure need be reported to the Comptroller General in advance of actual payment unless it is

in writing and exceeds the amount of \$100.

(c) Such debts, obligations, contracts, agreements, and promises in existence prior to April 7, 1972, the effective date of the Act, are not required to be itemized as to date incurred or name of creditor or debtor, but any total outstanding amounts shall be shown.

§ 16.5 Effect of acknowledgment and filing by the Office.

Any acknowledgment by the Office of Federal Elections of the receipt of any statement of organization or any report or statement filed under this subchapter is intended solely to inform the person filing the same of the receipt thereof by the Office, and neither such acknowledgment nor the acceptance and filing of any such report or statement by the Office shall constitute express or implied approval thereof, or in any manner indicate that the contents of any such report or statement fulfills the filing or other requirements of the Act or of the regulations thereunder.

§ 16.6 Personal responsibility of person signing statement.

(a) Each treasurer of a political committee, each candidate, and any other person required to file any report or statement with the Comptroller General under the Act and under this subchapter shall be personally responsible for the timely and complete filing of such report or statement and for the accuracy of any information or statement contained therein.

(b) Any willfully false or fraudulent statements or representations in such a report or statement will subject the person making the same to the criminal penalties provided under section 1001 of title 18, United States Code.

PART 17—FILING COPIES OF STATEMENTS WITH STATE OFFICERS

Sec.

- 17.1 Filing requirements.
- 17.2 Filing copy of statement of organization.
- 17.3 Filing copy of reports of expenditures and contributions.
- 17.4 Time and manner of filing copy.
- 17.5 Duty of State officers.

AUTHORITY: The provisions of this Part 17 issued under section 308(a) (13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 309, 86 Stat. 18, — U.S.C. —.

§ 17.1 Filing requirements.

(a) A copy of each statement required to be filed with the Comptroller General under this subchapter shall be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the appropriate State. For purposes of this part, the term "appropriate State" means the State or other jurisdiction designated in § 17.2 or § 17.3.

§ 17.2 Filing copy of statement of organization.

A copy of each statement of organization required to be filed with the Comptroller General under Part 13 by political committees supporting any candidate for

nomination or election to the office of President or Vice President shall be filed with the State officer of the State or other jurisdiction where the committee has its principal office.

§ 17.3 Filing copy of reports of expenditures and contributions.

A copy of each report required to be filed with the Comptroller General under Part 14 or Part 15 of this subchapter relating to contributions and expenditures in connection with the campaign of a candidate for nomination or election to the office of President or Vice President, shall be filed with the State officer of each State or other jurisdiction in which an expenditure is made by him or on his behalf.

§ 17.4 Time and manner of filing copy.

A copy required to be filed with a State officer under this part shall be filed at the same time and in the same manner as the original report is filed with the Comptroller General, except that the person filing a report with the Comptroller General by mail may elect to file the copy with the State officer by hand delivery, provided that such delivery is made on or before the filing date prescribed by this subchapter. Each such copy of a report or statement shall be a complete, true, and legible copy of the original report or statement filed with the Comptroller General.

§ 17.5 Duty of State officers.

(a) Under section 309(b) of the Act, it is the duty of the Secretary of State, or the equivalent State officer, under section 309(a) —

(1) to receive and maintain in an orderly manner all reports and statements required by title III of the Act to be filed with him;

(2) To preserve such reports and statements for a period of 10 years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives need be preserved for only 5 years from the date of receipt;

(3) To make the reports and statements filed with him available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than the end of the day during which it was received and to permit copying of any such report or statement by hand or by duplicating machine, requested by any person, at the expense of such person; and

(4) To compile and maintain a current list of all statements or parts of statements pertaining to each candidate.

PART 18—REPORTS ON NATIONAL CONVENTION FINANCING

- Sec. 18.1 Filing requirement.
- 18.2 Forms.

AUTHORITY: The provisions of this part 18 issued under section 308(a) (13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 307, 86 Stat. 16, — U.S.C. —.

§ 18.1 Filing requirement.

(a) Within 60 days following the end of a national party's presidential nomi-

nating convention (but not later than 20 days prior to the date of the presidential election), a full and complete financial statement of the sources from which it derived its funds and the purpose for which funds were expended shall be filed with the Comptroller General by each committee or other organization which—

(1) Represents a State, or a political subdivision thereof, or any group of persons in dealing with national party officials with respect to such nominating convention, or

(2) Represents such national party in making arrangements for such nominating convention.

§ 18.2 Forms.

Such reports shall be prepared on forms to be prescribed by the Comptroller General, and which may be obtained from the Office of Federal Elections, U.S. General Accounting Office, 441 G Street NW., Washington, DC 20548, and shall be filed in accordance with the definition contained in § 11.16 of this subchapter.

PART 19—PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

§ 19.1 Prohibition.

No person shall make a contribution (as defined in Part 11 of this subchapter) in the name of another person or in any other name than his own in connection with any candidate's campaign for nomination or election to the office of President or Vice President, and no person shall knowingly accept such a contribution made by one person in the name of another person or in any other name than the contributor's in connection with any such campaign. The foregoing sentence applies to any contributor, as well as to any candidate, or any officer or employee of a political committee, or any other person.

(Sec. 308(a) (13), 86 Stat. 17, — U.S.C. —. Interpret or apply section 310, 86 Stat. 19, — U.S.C. —)

PART 20—ADMINISTRATIVE DUTIES AND COMPLAINTS OF VIOLATIONS

Subpart A—Duties of the Comptroller General as Supervisory Officer

- Sec. 20.1 Reporting forms and bookkeeping manuals.
- 20.2 Public inspection and copying of reports.
- 20.3 Prohibition against commercial use of information.
- 20.4 Preserving filed reports and statements.
- 20.5 Current list of statements pertaining to candidates.
- 20.6 Reports by the Comptroller General.
- 20.7 Audits and field investigations.
- 20.8 Reporting violations to law enforcement authorities.
- 20.9 Regulations and interpretations.

Subpart B—Complaints and Violation

- Sec. 20.10 Filing of complaints.
- 20.11 Investigation.

AUTHORITY: The provisions of this Part 20 issued under section 308(a) (13), 86 Stat. 17, — U.S.C. —. Interpret or apply sections 308 (a) and 308(d), 86 Stat. 16, 18, — U.S.C. —.

Subpart A—Duties of the Comptroller General as Supervisory Officer

§ 20.1 Reporting forms and bookkeeping manuals.

Forms for the reports and statements required to be filed under this subchapter and a manual setting forth recommended uniform methods of bookkeeping will be furnished upon request, without charge, to persons required to file.

§ 20.2 Public inspection and copying of reports.

(a) Reports and statements filed with the Comptroller General under this subchapter will be made available for inspection and copying, or duplicating at the prescribed charge, by any person commencing as soon as practicable after receipt and, in any case, not later than the end of the second day following the date of receipt, at the:

Office of Federal Elections, U.S. General Accounting Office, 441 G Street NW., Washington, DC 20548.

The Office will be open for business during the hours from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. During the period immediately after preelection and pre-convention reports have been received, the Office will also be open for business on Saturdays from 9 a.m. to 5 p.m.

(b) A list of rules and charges for copies authorized by the Act shall be posted at the Office.

§ 20.3 Prohibition against commercial use of information.

No information copied or obtained from reports and statements shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose. For purposes of this subchapter, "soliciting contributions" means requesting gifts or donations of money, or anything of value for any cause or organization—political, social, charitable, religious, or otherwise. For purposes of this subchapter, "any commercial purpose" means any sale, trade, or barter of any list of names or addresses taken from such reports and statements and any use of any such lists for any surveys or sales promotion activity. Violations of this section are subject to the criminal penalties provided in section 311 of the Act.

§ 20.4 Preserving filed reports and statements.

(a) Reports and statements filed with the Comptroller General under the Act will be preserved for a period of 10 years from the date of receipt. After the expiration of the 10-year period, the original report or statement will be transferred to the National Archives and Records Service of the General Services Administration.

§ 20.5 Current list of statements pertaining to candidates.

(a) A current list of statements or parts thereof pertaining to each candidate will be maintained at the Office of Federal Elections for public inspection during regular business hours. Each list will be brought up to date within 2 days

of receipt of any information requiring a change in the list.

§ 20.6 Reports by the Comptroller General.

(a) An annual report for the preceding calendar year will be published and widely disseminated as early in each calendar year as the Comptroller General determines is feasible. To the extent that such information is contained in the reports furnished by candidates and political committees, the annual report will include compilations of—

(1) Total reported contributions and expenditures for all candidates, political committees, and other persons during the year;

(2) Total amounts contributed and expended broken down into candidate, party, and nonparty expenditures on the national, State, and local levels;

(3) Total amounts expended for influencing nominations and elections stated separately;

(4) Aggregate amounts contributed by any contributor shown to have contributed in excess of \$100.

(b) Special reports which the Comptroller General may publish from time to time comparing the various totals and categories of contributions and expenditures made with respect to preceding elections, and such other reports as he may deem appropriate, will likewise receive the widest dissemination.

§ 20.7 Audits and field investigations.

(a) The Comptroller General will make audits and field investigations, from time to time, with respect to reports and statements filed with him under this subchapter and with respect to alleged failure to file any such required report or statement.

(b) Audits and field investigations will be made as directed by the Director of the Office of Federal Elections on his own initiative, on the basis of information received by the Office, or on the basis of complaints received.

(c) All candidates and political committees required to file reports under this subchapter shall keep adequate books and records. Such books and records shall be maintained on a current basis and shall be made available for inspection and audit by authorized representatives of the Comptroller General. Such books and records shall be preserved for a period of 4 years following the date of filing of the reports to which they pertain.

(d) Any omissions or mistakes discovered in a filed report or statement will be called to the attention of the person who filed it with a request for completion or correction. A corrected report or statement or an amendment thereto, shall be signed, verified and submitted in the same manner as the original. In no case shall the filed report or statement be returned or allowed out of the Office.

§ 20.8 Reporting violations to law enforcement authorities.

(a) The Comptroller General will report apparent violations of any provision of title III of the Act or of this sub-

chapter to the Attorney General of the United States for appropriate action.

(b) In the case of any alleged failure to file any report required to be filed with the Comptroller General under the provisions of title III of the Act, the person required to so file shall be notified and requested to explain such failure to file. If the explanation is not made within the time period stated in the letter of notification, or if the explanation is not satisfactory in the judgment of the Director, the case shall be immediately referred to the Attorney General for appropriate action.

§ 20.9 Regulations and interpretations.

The Comptroller General may prescribe additional rules and regulations to carry out the provisions of the Act pertaining to his duties as a supervisory officer. Such rules and regulations and any amendment of this chapter will be published in the FEDERAL REGISTER and distributed to political committees registered with the Comptroller General and will otherwise be made available to any interested person.

Subpart B—Complaints and Violations

§ 20.10 Filing of complaints.

(a) Any person who believes a violation of title III of the Act or of this subchapter, pertaining to the duties and responsibilities of the Comptroller General, has occurred may file a complaint in person or by mail with the Office of Federal Elections, U.S. General Accounting Office, 441 G Street NW., Washington, DC 20548.

(b) There is no prescribed form for a complaint, but it shall be typewritten or handwritten legibly in ink. The name and address of the person making the complaint must be typewritten or legibly hand printed on the complaint, and the complaint must be signed by such person and verified by the oath or affirmation of such person, taken before any officer authorized to administer oaths. A complaint shall be specific in naming the alleged violator and in describing the alleged violation. Complaints will be held in confidence, and officials and employees of the Office may not divulge information about complaints without specific authorization from the Director.

§ 20.11 Investigation.

(a) If, in the judgment of the Director after due consideration of the complaint, there appears to be substantial reason to believe that a violation has occurred or is about to occur, he shall expeditiously undertake an investigation of the complaint. If the complainant is a candidate, the investigation shall include the reports and statements filed by the complainant under this subchapter.

(b) (1) If, on the basis of the investigation, the Director decides that there does not appear to have been any violation, or that there is not likely to be any violation, he shall so notify the complainant and fully state the reasons for the decision. The complainant may, if he is not satisfied with the Director's decision, request a review of the decision by the Comptroller General. Such request

must be in writing and must state the reasons why the complainant believes the Director's decision is incorrect.

(2) If the Director decides that there appears to have been, or that there is likely to be, a violation by any person, he shall notify the alleged violator of the decision and advise him of the action proposed to be taken and of his right to a hearing. The notice shall specify the period of time within which a hearing may be requested.

(c) (1) Upon timely request by an alleged violator, the Director shall promptly schedule a hearing on the complaint and shall notify the alleged violator of the time and place of the hearing.

(2) The hearing shall be held before the Director or his designee and shall be held at the Director's office in Washington, D.C., or, in the Director's discretion, at a location in the geographical area of the election involved.

(3) The hearing shall be informal and formal rules of evidence shall not apply. However, the Director or his designee may, in his discretion, exclude any evidence that he considers to be immaterial, repetitious, or scandalous. The alleged violator shall have the right to be represented by an attorney or other representative. Each hearing shall be recorded by sound recording or, in the discretion of the Director, by stenographic methods. A transcript of the proceedings may be purchased by the parties involved at rates to be prescribed by the Director.

(d) Following the hearing or, if no hearing is requested within the time period specified in the notice, then following the expiration of such time period, if the Director believes, in the exercise of his judgment based on the investigation and hearing, if any, that any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of Title III of the Act or any regulation or order issued thereunder, the Director shall, without further notice, refer the matter to the Attorney General of the United States with a request that a civil action for injunctive or other relief be instituted in the appropriate district court of the United States as provided for by section 308(d) (1) of the Act.

PART 21—PENALTIES FOR VIOLATIONS

§ 21.1 Penalties.

Under section 311(a) of the Act, any person who violates any provision of Title III of the Act may be fined not more than \$1,000 or imprisoned not more than 1 year, or both. Under section 311 (b) of the Act, in the case of any conviction under Title III of the Act, where the punishment inflicted does not include imprisonment, such conviction shall be deemed a misdemeanor conviction only.

(Sec. 308(a) (13), 86 Stat. 17, — U.S.C. —. Interpret or apply sec. 311, 86 Stat. 19, — U.S.C. —.)

[SEAL]

ELMER B. STAATS,
Comptroller General
of the United States.

[FR Doc.72-4585 Filed 3-23-72; 8:51 am]

COMPTROLLER GENERAL OF THE UNITED STATES

U.S. GENERAL ACCOUNTING OFFICE

Washington, D.C.

REGISTRATION FORM AND STATEMENT OF ORGANIZATION

FOR A

COMMITTEE

SUPPORTING ANY CANDIDATE(S) FOR THE OFFICE OF PRESIDENT OR VICE PRESIDENT OF THE UNITED STATES AND ANTICIPATING CONTRIBUTIONS OR EXPENDITURES IN EXCESS OF \$1,000 IN ANY CALENDAR YEAR

REQUIREMENTS FOR REGISTRATION OF POLITICAL COMMITTEES

(In accordance with the provisions of the Federal Election Campaign Act of 1971, P.L. 92-225)

SEE APPROPRIATE SUPERVISORY OFFICER'S MANUAL FOR ADDITIONAL REGULATIONS AND INSTRUCTIONS

A. The treasurer of each political committee which anticipates receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding \$1,000 any portion of which will be expended for the purpose of influencing the nomination or election of candidates for the office of President or Vice President shall file with the Comptroller General of the United States a Registration Form and Statement of Organization, within 10 days after its organization, or, if later, 10 days after the date on which it has information which causes the committee to anticipate it will receive contributions or make expenditures in excess of \$1,000 any portion of which will be expended for the purpose of influencing the nomination or election of candidates for the office of President or Vice President. Each such committee in existence on April 7, 1972 shall file a Registration Form and Statement of Organization with the Comptroller General on or before April 17, 1972. Note: If the committee also supports a candidate for the U.S. Senate, a similar statement must be filed with the Secretary of the Senate, and if the committee supports a candidate for the U.S. House of Representatives a similar statement must be filed with the Clerk of the House of Representatives.

B. A copy of this statement shall be filed with the Secretary of State (or, if there is no Office of Secretary of State, the equivalent State officer) of the appropriate State.

C. A copy of this statement shall be preserved by the treasurer of the political committee for a period of not less than four (4) years.

D. Any change or correction of information previously submitted in a Registration Form and Statement of Organization shall be reported to the Comptroller General within ten (10) days following the change or correction. Such amendments to the statement shall contain the date, identity of the committee, the changed or corrected information appropriately identified, and shall be verified by the oath or affirmation of the person filing such information, taken before any officer authorized to administer the oaths.

E. Any committee which, after having filed one or more Registration Form and Statement of Organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$1,000 shall so notify the Comptroller General. Such notification shall be verified by the oath or affirmation of the person filing it, taken before any officer authorized to administer the oaths, and such notification shall include a statement as to the disposition of residual funds if the committee is disbanding.

1. Full name of committee: _____

Mailing address and ZIP code: _____

Date of this registration: _____

2. Affiliated or connected organizations:

Name of affiliated or connected organization	Mailing address and ZIP code	Relationship

*

*Submit additional information on separate continuation sheets appropriately labeled and attached to this Statement of Organization. Indicate in the appropriate box above when information is continued on separate page(s).

3. Area, Scope and Jurisdiction of the Committee:

(a) Will this committee operate in more than one State? _____

(b) Will it operate on a statewide basis in one State? _____

(c) Will it primarily support candidates seeking State or local office? _____

(d) Will it support a candidate for the office of President or Vice President in an aggregate amount in excess of \$1,000 during the calendar year? _____

COMP. GEN. ELECTION FORM 1

(Full Name of Committee)

4. (a) If the committee is supporting individual candidates for the office of President or Vice President, list each candidate by name, address, office sought, and party affiliation:

Full names of candidates	Mailing address and ZIP code	State and Congressional District	Party
*			

(b) List by name, address, office sought, and party affiliation, any candidate for other Federal office that this committee is supporting:

Full names of candidates	Mailing address and ZIP code	Office sought	Party
*			

(c) List by name, address, office sought, and party affiliation, any candidate for any other public office that this committee is supporting:

Full names of candidates	Mailing address and ZIP code	Office sought	Party
*			

5. If this committee is supporting the entire ticket of a party, give name of party:

6. Identify by name, address and position, the committee's custodian of books and accounts:

Full name	Mailing address and ZIP code	Committee title or position
*		

7. List by name, address and position, other principal officers of the committee, including officers and members of the finance committee, if any:

Full name	Mailing address and ZIP code	Committee title or position
*		

*Submit additional information on separate continuation sheets appropriately labeled and attached to this Statement of Organization. Indicate in the appropriate box above when information is continued on separate page(s).

8. Does this committee plan to stay in existence beyond the current calendar year? If so how long?

9. In the event of dissolution, what disposition will be made of residual funds?

10. List all banks or other repositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds:

Name of bank, repository, etc.	Mailing address and ZIP code
*	

11. List all reports required to be filed by this committee with States and local jurisdictions, together with the names, addresses, and positions of the recipients of the reports:

Report title	Dates required to be filed	Name and position of recipient	Mailing address and ZIP code
*			

*Submit additional information on separate continuation sheets appropriately labeled and attached to this Statement of Organization. Indicate in the appropriate box above when information is continued on separate page(s).

State of _____
 County of _____ ss.

I, _____, being duly sworn, depose (affirm) and say that the
 (Full Name of Treasurer of Political Committee)
 information in this Registration Form and Statement of Organization is complete, true, and correct.

 (Signature of Treasurer of Political Committee)

Subscribed and sworn to (affirmed) before me this _____ day of _____, A.D. 19_____.

 (Notary Public)

[SEAL]

My commission expires _____, 19_____

**Return completed form and attachments to:
 Office of Federal Elections
 U.S. General Accounting Office
 441 G Street, NW.
 Washington, D.C. 20548**

EXTRACTS FROM THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

SEC. 303. (a) Each political committee which anticipates receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding \$1,000 shall file with the supervisory officer a statement of organization, within ten days after its organization or, if later, ten days after the date on which it has information which causes the committee to anticipate it will receive contributions or make expenditures in excess of \$1,000. Each such committee in existence at the date of enactment of this Act shall file a statement of organization with the supervisory officer at such time as he prescribes.

(b) The statement of organization shall include—

- (1) the name and address of the committee;
- (2) the names, addresses, and relationships of affiliated or connected organizations;
- (3) the area, scope, or jurisdiction of the committee;
- (4) the name, address, and position of the custodian of books and accounts;
- (5) the name, address, and position of other principal officers, including officers and members of the finance committee, if any;
- (6) the name, address, office sought, and party affiliation of (A) each candidate whom the committee is supporting, and (B) any other individual, if any, whom the committee is supporting for nomination for election, or election, to any public office whatever; or, if the committee is supporting the entire ticket of any party, the name of the party;
- (7) a statement whether the committee is a continuing one;
- (8) the disposition of residual funds which will be made in the event of dissolution;
- (9) a listing of all banks, safety deposit boxes, or other repositories used;
- (10) a statement of the reports required to be filed by the committee with State or local officers, and, if so, the names, addresses, and positions of such persons; and
- (11) such other information as shall be required by the supervisory officer.

(c) Any change in information previously submitted in a statement of organization shall be reported to the supervisory officer within a ten-day period following the change.

(d) Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$1,000 shall so notify the supervisory officer.

* * * * *

SEC. 306. (a) A report or statement required by this title to be filed by a treasurer of a political committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing such report or statement, taken before any officer authorized to administer oaths.

(b) A copy of a report or statement shall be preserved by the person filing it for a period of time to be designated by the supervisory officer in a published regulation.

(c) The supervisory officer may, by published regulation of general applicability, relieve any category of political committees of the obligation to comply with Section 304 if such committee (1) primarily supports persons seeking State or local office, and does not substantially support candidates, and (2) does not operate in more than one State or on a statewide basis.

DEFINITIONS FOR USE WITH THIS STATEMENT OF ORGANIZATION REGISTRATION FORM

“address” and “mailing address” mean: building number, street, city, State and ZIP code;

“affiliated or connected organizations” means but is not limited to: (a) an organization which organized the reporting committee primarily for the purpose of influencing the nomination or election of candidates for Federal office; or (b) an organization whose primary purpose is to support the reporting committee; or (c) an organization whose membership is generally similar to that of the reporting committee;

“candidate” means: an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

“contribution” means: (1) a gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office or as a presidential or vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States; (2) a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose; (3) a transfer of funds between political committees; (4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge for any such purpose; and (5) notwithstanding the foregoing meanings of “contribution”, the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee;

“election” means: (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

“expenditure” means: (1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or as a presidential or vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States; (2) a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure, and (3) a transfer of funds between political committees;

“Federal office” means: the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

“file”, “filed”, and “filing” mean: delivery to the Comptroller General of the United States, Washington, D.C., by midnight of the prescribed filing date, or deposit as certified air mail, in an established U.S. Post Office, postage prepaid, no later than midnight of the second day next preceding the filing date. Certified mail receipt shall be retained as evidence of mailing. Documents deposited within 500 miles from Washington, D.C. need not be sent by air mail but shall be certified. In the event the mailing deadline falls on a day in which no mail is certified, the next preceding day on which mail is certified shall be deemed the mailing date;

“person” means: an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons;

“political committee” means: any committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding \$1,000;

“State” means: each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States; and

“supervisory officer” means: the Secretary of the Senate with respect to candidates for Senator; the Clerk of the House of Representatives with respect to candidates for Representative in, or Delegate or Resident Commissioner to, the Congress of the United States; and the Comptroller General of the United States in any other case.

COMPTROLLER GENERAL OF THE UNITED STATES

U.S. GENERAL ACCOUNTING OFFICE

Washington, D.C.

REPORT OF RECEIPTS AND EXPENDITURES

FOR A

CANDIDATE

FOR NOMINATION OR ELECTION TO THE OFFICE OF THE PRESIDENT OR
VICE PRESIDENT OF THE UNITED STATES

(Full Name of Candidate)	State (If Primary, Convention, or Caucus)
(Street)	(Party Affiliation)
(City, State, ZIP code)	

TYPE OF REPORT

(Check Appropriate Box and Complete, if Applicable)

- March 10 report.
- June 10 report.
- September 10 report.
- January 31 report.
- Fifteenth day report preceding _____ election on _____
(Primary, general, caucus, or convention) (Date)
- Fifth day report preceding _____ election on _____
(Primary, general, caucus, or convention) (Date)
- Termination report.

VERIFICATION BY OATH OR AFFIRMATION

State of _____

ss.

County of _____

I, _____, being duly sworn, depose (affirm) and say
(Full Name of Candidate)
that this Report of Receipts and Expenditures is complete, true, and correct.

(Signature of Candidate)

Subscribed and sworn to (affirmed) before me this _____ day of _____, A.D. 19____.

(Notary Public)

[SEAL]

My commission expires _____, 19____.

RETURN COMPLETED REPORT AND ATTACHMENTS TO:
Office of Federal Elections
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

COMP. GEN. ELECTION FORM 2

GENERAL INFORMATION

(In accordance with the provisions of the Federal Election Campaign Act of 1971, P.L. 92-225)

SEE APPROPRIATE SUPERVISORY OFFICER'S MANUAL FOR ADDITIONAL
REGULATIONS AND INSTRUCTIONS

A. Each candidate for election to the office of the President or Vice President of the United States shall file with the Comptroller General of the United States periodic reports of receipts and expenditures on the tenth day of March, June and September and by the thirty-first day of January in each year, and shall file preelection reports on the fifteenth and fifth days next preceding the date on which the election is held. All of the periodic reports shall be complete as of the close of the next preceding month and the preelection reports shall be complete as of midnight of the seventh day next preceding the filing date. Any contribution of \$5,000 or more (including a transfer of funds from a candidate or committee) which is received after the closing date prescribed for books for the last report prior to an election shall be separately reported within 48 hours after its receipt. Such contribution shall be reported to the Comptroller General by telegraph or hand delivered letter and shall be declared in the next report due under the Act. (Sec. 304.)

B. The Reports of Receipts and Expenditures shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the candidate shall file a statement to that effect. (Sec. 304.)

C. A copy of the Report of Receipts and Expenditures shall be preserved by the candidate filing under the Act for a period of four (4) years.

D. Any correction of information previously submitted in a Report of Receipts and Expenditures shall be reported to the Comptroller General within ten (10) days following discovery of the error. Such amendment to the Report of Receipts and Expenditures shall contain the date, identity of the candidate, and the corrections appropriately identified, and shall be verified by the oath or affirmation of the person filing such information, taken before any officer authorized to administer oaths.

DEFINITIONS FOR USE WITH THIS FORM

"candidate" means: an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

"contribution" means: (1) a gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office or as a presidential or vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States; (2) a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose; (3) a transfer of funds between political committees; (4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge for any such purpose; and (5) notwithstanding the foregoing meanings of "contribution", the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee;

"election" means: (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"expenditure" means: (1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or as a presidential or vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States; (2) a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure, and (3) a transfer of funds between political committees;

"Federal office" means: the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

"file", "filed", and "filing" mean: delivery to the Comptroller General of the United States, Washington, D.C., by midnight of the prescribed filing date, or deposit as certified air mail, in an established U.S. Post Office, postage prepaid, no later than midnight of the second day next preceding the filing date. Certified mail receipt shall be retained as evidence of mailing. Documents deposited within 500 miles from Washington, D.C. need not be sent by air mail but shall be certified. In the event the mailing deadline falls on a day in which no mail is certified, the next preceding day on which mail is certified shall be deemed the mailing date;

"person" means: an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons;

"political committee" means: any committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding \$1,000;

"State" means: each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States; and

"supervisory officer" means: the Secretary of the Senate with respect to candidates for Senator; the Clerk of the House of Representatives with respect to candidates for Representative in, or Delegate or Resident Commissioner to, the Congress of the United States; and the Comptroller General of the United States in any other case.

Name of Candidate _____

SUMMARY REPORT COVERING PERIOD FROM _____ THRU _____

	<i>Column A— This period</i>	<i>Column B— Calendar year to date</i>
SECTION A—RECEIPTS:		
Part 1. Individual contributions:		
a. Itemized (use schedule A*).....	\$	
b. Unitemized.....	\$	
Total individual contributions	\$	\$
Part 2. Sales and collections:		
Itemized (use schedule B*).....	\$	\$
Part 3. Loans received:		
a. Itemized (use schedule A*).....	\$	
b. Unitemized.....	\$	
Total loans received	\$	\$
Part 4. Other receipts (refunds, rebates, interest, etc.):		
a. Itemized (use schedule A*).....	\$	
b. Unitemized.....	\$	
Total other receipts	\$	\$
Part 5. Transfers in:		
Itemize all (use schedule A*).....	\$	\$
TOTAL RECEIPTS	\$	\$
SECTION B—EXPENDITURES:		
Part 6. Communications media expenditures:		
Itemize all (use schedule C*).....	\$	\$
Part 7. Expenditures for personal services, salaries, and reimbursed expenses:		
a. Itemized (use schedule D*).....	\$	
b. Unitemized.....	\$	
Total expenditures for personal services, salaries, and reimbursed expenses	\$	\$
Part 8. Loans made:		
a. Itemized (use schedule D*).....	\$	
b. Unitemized.....	\$	
Total loans made	\$	\$
Part 9. Other expenditures:		
a. Itemized (use schedule C*).....	\$	
b. Unitemized.....	\$	
Total other expenditures	\$	\$
Part 10. Transfers out:		
Itemize all (use schedule D*).....	\$	\$
TOTAL EXPENDITURES	\$	\$
SECTION C—CASH BALANCES:		
Cash on hand at beginning of reporting period.....	\$	
Add total receipts (section A above).....	\$	
Subtotal.....	\$	
Subtract total expenditures (section B above).....	\$	
Cash on hand at close of reporting period.....	\$	

*Schedules are to be used only when itemization is required. (See each Schedule for instructions.) When itemization is unnecessary for a given Part, the total of any amounts for that Part is to be entered as a lump sum on the "Unitemized" line of the appropriate Part of the Summary Report. The word "None" should be entered on any line of the Summary Report when no amount is being reported.

EXTRACTS FROM THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

SEC. 304. (a) Each treasurer of a political committee supporting a candidate or candidates for election to Federal office, and each candidate for election to such office, shall file with the appropriate supervisory officer reports of receipts and expenditures on forms to be prescribed or approved by him. Such reports shall be filed on the tenth day of March, June, and September, in each year, and on the fifteenth and fifth days next preceding the date on which an election is held, and also by the thirty-first day of January. Such reports shall be complete as of such date as the supervisory officer may prescribe, which shall not be less than five days before the date of filing, except that any contribution of \$5,000 or more received after the last report is filed prior to the election shall be reported within forty-eight hours after its receipt.

(b) Each report under this section shall disclose—

- (1) the amount of cash on hand at the beginning of the reporting period;
- (2) the full name and mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events) within the calendar year in an aggregate amount or value in excess of \$100, together with the amount and date of such contributions;
- (3) the total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under paragraph (2);
- (4) the name and address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers;
- (5) each loan to or from any person within the calendar year in an aggregate amount or value in excess of \$100, together with the full names and mailing addresses (occupations and the principal places of business, if any) of the lender and endorsers, if any, and the date and amount of such loans;
- (6) the total amount of proceeds from (A) the sale of tickets to each dinner, luncheon, rally, and other fundraising event; (B) mass collections made at such events; and (C) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;
- (7) each contribution, rebate, refund, or other receipt in excess of \$100 not otherwise listed under paragraphs (2) through (6);
- (8) the total sum of all receipts by or for such committee or candidate during the reporting period;
- (9) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value in excess of \$100, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;
- (10) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of \$100 has been made, and which is not otherwise reported, including the amount, date, and purpose of such expenditure;
- (11) the total sum of expenditures made by such committee or candidate during the calendar year;
- (12) the amount and nature of debts and obligations owed by or to the committee, in such form as the supervisory officer may prescribe and a continuous reporting of their debts and obligations after the election at such periods as the supervisory officer may require until such debts and obligations are extinguished; and
- (13) such other information as shall be required by the supervisory officer.

(c) The reports required to be filed by subsection (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to that effect.

SEC. 306. (a) A report or statement required by this title to be filed by a treasurer of a political committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing such report or statement, taken before any officer authorized to administer oaths.

SEC. 309. (a) A copy of each statement required to be filed with a supervisory officer by this title shall be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the appropriate State. For purposes of this subsection, the term "appropriate State" means—

- (1) for reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of President or Vice President of the United States, each State in which an expenditure is made by him or on his behalf, and
- (2) for reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, the State in which he seeks election.

GENERAL INFORMATION

(In accordance with the provisions of the Federal Election Campaign Act of 1971, P.L. 92-225)

SEE APPROPRIATE SUPERVISORY OFFICER'S MANUAL FOR ADDITIONAL REGULATIONS AND INSTRUCTIONS

A. Each treasurer of a political committee supporting a candidate or candidates for election to the office of President or Vice President of the United States shall file with the Comptroller General of the United States periodic reports of receipts and expenditures on the tenth day of March, June and September and by the thirty-first day of January in each year, and shall file preelection reports on the fifteenth and fifth days next preceding the date on which the election is held. All of the periodic reports shall be complete as of the close of the next preceding month and the preelection reports shall be complete as of midnight of the seventh day next preceding the filing date. Any contribution of \$5,000 or more (including a transfer of funds from a candidate or committee) which is received after the closing date prescribed for books for the last report prior to an election shall be separately reported within 48 hours after its receipt. Such contribution shall be reported to the Comptroller General by telegraph or hand delivered letter and shall be declared in the next report due under the Act. (Sec. 304.)

B. The Reports of Receipts and Expenditures shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee shall file a statement to that effect. (Sec. 304.)

C. A copy of the Report of Receipts and Expenditures shall be preserved by the treasurer of the political committee or other person filing under section 305 of the Act for a period of four (4) years.

D. Any correction of information previously submitted in a Report of Receipts and Expenditures shall be reported to the Comptroller General within ten (10) days following discovery of the error. Such amendment to the Report of Receipts and Expenditures shall contain the date, identity of the committee, and the corrections appropriately identified, and shall be verified by the oath or affirmation of the person filing such information, taken before any officer authorized to administer oaths.

E. Every person (other than a political committee) who makes contributions or expenditures in support of a candidate for the office of President or Vice President, other than by contribution to a political committee or candidate, in an aggregate amount in excess of \$100 within a calendar year shall file with the Comptroller General a report containing the information required by section 304 of the Federal Election Campaign Act of 1971. This form may be used for such purpose. Reports required by this section shall be filed on the dates on which reports by political committees are filed, but need not be cumulative. (Sec. 305.)

DEFINITIONS FOR USE WITH THIS FORM

"candidate" means: an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

"contribution" means: (1) a gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office or as a presidential or vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States; (2) a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose; (3) a transfer of funds between political committees; (4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge for any such purpose; and (5) notwithstanding the foregoing meanings of "contribution", the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee;

"election" means: (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"expenditure" means: (1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or as a presidential or vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States; (2) a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure, and (3) a transfer of funds between political committees;

"Federal office" means: the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

"file", "filed", and "filing" mean: delivery to the Comptroller General of the United States, Washington, D.C., by midnight of the prescribed filing date, or deposit as certified air mail, in an established U.S. Post Office, postage prepaid, no later than midnight of the second day next preceding the filing date. Certified mail receipt shall be retained as evidence of mailing. Documents deposited within 500 miles from Washington, D.C. need not be sent by air mail but shall be certified. In the event the mailing deadline falls on a day in which no mail is certified, the next preceding day on which mail is certified shall be deemed the mailing date;

"person" means: an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons;

"political committee" means: any committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding \$1,000;

"State" means: each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States; and

"supervisory officer" means: the Secretary of the Senate with respect to candidates for Senator; the Clerk of the House of Representatives with respect to candidates for Representative in, or Delegate or Resident Commissioner to, the Congress of the United States; and the Comptroller General of the United States in any other case.

Name of Committee _____

SUMMARY REPORT COVERING PERIOD FROM _____ THRU _____

	<i>Column A— This period</i>	<i>Column B— Calendar year to date</i>
SECTION A—RECEIPTS:		
Part 1. Individual contributions:		
a. Itemized (use schedule A*).....	\$.....	
b. Unitemized.....	\$.....	
Total individual contributions	\$.....	\$.....
Part 2. Sales and collections:		
Itemize (use schedule B*).....	\$.....	\$.....
Part 3. Loans received:		
a. Itemized (use schedule A*).....	\$.....	
b. Unitemized.....	\$.....	
Total loans received	\$.....	\$.....
Part 4. Other receipts (refunds, rebates, interest, etc.):		
a. Itemized (use schedule A*).....	\$.....	
b. Unitemized.....	\$.....	
Total other receipts	\$.....	\$.....
Part 5. Transfers in:		
Itemize all (use schedule A*).....	\$.....	\$.....
TOTAL RECEIPTS	\$.....	\$.....
SECTION B—EXPENDITURES:		
Part 6. Communications media expenditures:		
Itemize all (use schedule C*).....	\$.....	\$.....
Part 7. Expenditures for personal services, salaries, and reimbursed expenses:		
a. Itemized (use schedule D*).....	\$.....	
b. Unitemized.....	\$.....	
Total expenditures for personal services, salaries, and reimbursed expenses	\$.....	\$.....
Part 8. Loans made:		
a. Itemized (use schedule D*).....	\$.....	
b. Unitemized.....	\$.....	
Total loans made	\$.....	\$.....
Part 9. Other expenditures:		
a. Itemized (use schedule C*).....	\$.....	
b. Unitemized.....	\$.....	
Total other expenditures	\$.....	\$.....
Part 10. Transfers out:		
Itemize all (use schedule D*).....	\$.....	\$.....
TOTAL EXPENDITURES	\$.....	\$.....
SECTION C—CASH BALANCES:		
Cash on hand at beginning of reporting period.....	\$.....	
Add total receipts (section A above).....	\$.....	
Subtotal.....	\$.....	
Subtract total expenditures (section B above).....	\$.....	
Cash on hand at close of reporting period.....	\$.....	
SECTION D—DEBTS AND OBLIGATIONS:		
Part 11. Debts and obligations owed to the committee (use schedule E*).....	\$.....	
Part 12. Debts and obligations owed by the committee (use schedule E*).....	\$.....	

*Schedules are to be used only when itemization is required. (See each Schedule for instructions.) When itemization is unnecessary for a given Part, the total of any amounts for that Part is to be entered as a lump sum on the "Unitemized" line of the appropriate Part of the Summary Report. The word "None" should be entered on any line of the Summary Report when no amount is being reported.

EXTRACTS FROM THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

SEC. 304. (a) Each treasurer of a political committee supporting a candidate or candidates for election to Federal office, and each candidate for election to such office, shall file with the appropriate supervisory officer reports of receipts and expenditures on forms to be prescribed or approved by him. Such reports shall be filed on the tenth day of March, June, and September, in each year, and on the fifteenth and fifth days next preceding the date on which an election is held, and also by the thirty-first day of January. Such reports shall be complete as of such date as the supervisory officer may prescribe, which shall not be less than five days before the date of filing, except that any contribution of \$5,000 or more received after the last report is filed prior to the election shall be reported within forty-eight hours after its receipt.

(b) Each report under this section shall disclose—

- (1) the amount of cash on hand at the beginning of the reporting period;
- (2) the full name and mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fund-raising events) within the calendar year in an aggregate amount or value in excess of \$100, together with the amount and date of such contributions;
- (3) the total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under paragraph (2);
- (4) the name and address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers;
- (5) each loan to or from any person within the calendar year in an aggregate amount or value in excess of \$100, together with the full names and mailing addresses (occupations and the principal places of business, if any) of the lender and endorsers, if any, and the date and amount of such loans;
- (6) the total amount of proceeds from (A) the sale of tickets to each dinner, luncheon, rally, and other fundraising event; (B) mass collections made at such events; and (C) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;
- (7) each contribution, rebate, refund, or other receipt in excess of \$100 not otherwise listed under paragraphs (2) through (6);
- (8) the total sum of all receipts by or for such committee or candidate during the reporting period;
- (9) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value in excess of \$100, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;
- (10) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of \$100 has been made, and which is not otherwise reported, including the amount, date, and purpose of such expenditure;
- (11) the total sum of expenditures made by such committee or candidate during the calendar year;
- (12) the amount and nature of debts and obligations owed by or to the committee, in such form as the supervisory officer may prescribe and a continuous reporting of their debts and obligations after the election at such periods as the supervisory officer may require until such debts and obligations are extinguished; and
- (13) such other information as shall be required by the supervisory officer.

(c) The reports required to be filed by subsection (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to that effect.

SEC. 306. (a) A report or statement required by this title to be filed by a treasurer of a political committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing such report or statement, taken before any officer authorized to administer oaths.

SEC. 309. (a) A copy of each statement required to be filed with a supervisory officer by this title shall be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the appropriate State. For purposes of this subsection, the term "appropriate State" means—

- (1) for reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of President or Vice President of the United States, each State in which an expenditure is made by him or on his behalf, and
- (2) for reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, the State in which he seeks election.

SCHEDULE A

ITEMIZED RECEIPTS—CONTRIBUTIONS, TICKET PURCHASES, LOANS, AND TRANSFERS

(Full Name of Candidate or Committee)

Part No. _____
(Use for itemizing Part 1, 2, 3, 4, or 5)

SEE REVERSE SIDE FOR INSTRUCTIONS
(Use separate page (s) for each numbered Part)

Date (month, day, year)	Full Name, Mailing Address, and ZIP Code (occupation and principal place of business, if any)	Aggregate Year-to-date (complete if applicable)	Amount of Receipt This Period
		Aggregate Year-to-date \$	

TOTAL THIS PERIOD _____
(Last page of this Part only)

Page _____

INSTRUCTIONS FOR PREPARING SCHEDULE A

(See Appropriate Supervisory Officer's Manual for Additional Regulations and Instructions)

Use this form to itemize Receipts for Part 1, 3, 4, or 5 and in conjunction with Schedule B for Part 2. Do not itemize more than one Part on a page. This form may be duplicated or the information may be itemized on computer printouts or any 8½ x 11" paper providing only the information required in the same format.

This Schedule is to be used to **ITEMIZE ONLY THE RECEIPTS AS SPECIFIED BELOW FOR EACH PART.** The "Total This Period" amount for each itemized Part is to be carried forward to the corresponding Part of the Summary Report. When applicable, the total of all other receipts **NOT REQUIRED TO BE ITEMIZED UNDER A GIVEN PART** is to be entered as a lump sum on the "UNITEMIZED" line of the appropriate Part of the Summary Report.

Part 1(a). ITEMIZED CONTRIBUTIONS.—This is an itemized account giving the date, full name and mailing address (occupation and principal place of business, if any) of each person who has made one or more contributions to or for the reporting committee or candidate during the reporting period in an amount in excess of \$100 or whose total contributions to date (aggregate) during the calendar year are in excess of \$100. *Exclude from this part the purchase of tickets for events such as dinners, luncheons, rallies and similar fundraising events which are reported in Part 2.* The actual amount of the contribution(s) received during this reporting period will be entered in the "Amount of Receipt This Period" column.

When the sum of a person's contribution(s) in this calendar year exceeds \$100, that total shall be entered in the "Aggregate Year-to-Date" box. When a subsequent contribution(s) is received in the calendar year from the same contributor, each such subsequent contribution shall be itemized as above and included in the total reported in the "Aggregate Year-to-Date" box. [Section 304 (b) (2).]

Part 2. ITEMIZED TICKET PURCHASES FOR EVENTS SUCH AS DINNERS, LUNCHEONS, RALLIES AND SIMILAR FUNDRAISING EVENTS.—This is an itemized account giving the date, full name and mailing address (occupation and principal place of business, if any) of each person who has purchased one or more tickets for events such as dinners, luncheons, rallies and similar fundraising events during this reporting period in an amount in excess of \$100 or whose total ticket purchases to date (aggregate) are in excess of \$100. The actual amount of the ticket purchases during this period will be entered in the "Amount of Receipt This Period" column.

When the sum of a person's ticket purchase(s) in this calendar year exceeds \$100, that total shall be entered in the "Aggregate Year-to-Date" box. When a subsequent ticket purchase(s) is received in the calendar year from the same contributor, each such subsequent ticket purchase shall be itemized as above and included in the total reported in the "Aggregate Year-to-Date" box. [Section 304 (b) (2).]

This is an itemization only to support Schedule B. The "Total This Period" amount should not be carried forward to Schedule B or the Summary Report. Attach Part No. 2 of this Schedule to Schedule B.

Part 3(a). ITEMIZED LOANS RECEIVED.—This is an itemized account giving the date, full name and mailing address (occupation and principal place of business, if any) of each lender and endorser of a loan(s) which has been received this reporting period in excess of \$100 or whose total loans to date (aggregate) are in excess of \$100. The actual amount of the loan(s) received during this reporting period will be entered in the "Amount of Receipt This Period" column.

When the sum of a person's loan(s) in this calendar year exceeds \$100, that total shall be entered in the "Aggregate Year-to-Date" box. When a subsequent loan(s) is received in the calendar year from the same contributor, each such subsequent loan shall be itemized as above and included in the total reported in the "Aggregate Year-to-Date" box. [Section 304 (b) (5).]

Part 4(a). ITEMIZED OTHER RECEIPTS.—This is an account of receipts in the form of a refund, return, rebate, interest, investment or other miscellaneous receipt **not otherwise reported in Part 1, 2, 3, or 5.** Give the date, full name and mailing address (occupation and principal place of business, if any) of each person from whom one or more such receipts have been received in this reporting period in an amount in excess of \$100. The actual amount of the receipt(s) during this reporting period will be entered in the "Amount of Receipt This Period" column. Do not use the "Aggregate Year-to-Date" box. [Section 304 (b) (7).]

Part 5. ITEMIZED TRANSFERS IN FROM POLITICAL COMMITTEES AND CANDIDATES.—This is an itemized account giving the date, full name and mailing address of each political committee or candidate from whom any transfer of funds has been received within this reporting period in any amount. The actual amount of the transfer(s) during this reporting period will be entered in the "Amount of Receipt This Period" column. Do not use the "Aggregate Year-to-Date" box. [Section 304 (b) (4).]

INSTRUCTIONS FOR PREPARING SCHEDULE B

(See Appropriate Supervisory Officer's Manual for Additional Regulations and Instructions)

Use this form to itemize Sales and Collections. This form may be duplicated or the information may be itemized on computer printouts or any 8½ x 11" paper providing only the information required in the same format.

Part 2. FUNDS RECEIVED FROM SALES AND COLLECTIONS.—This is an account of proceeds during this reporting period from (1) the sale of tickets to each dinner, luncheon, rally, or other fund-raising event; and (2) mass collections made at each such event. The sale of items (3) such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature and similar materials during the reporting period shall be reported in the total amount. Ticket sales and mass collections must be listed by each event, giving the date and type of event and the amount of proceeds collected. Ticket sales to any individual in an amount *in excess of \$100* during this reporting period or in an aggregate amount within the calendar year must be itemized using a separate Schedule A form which must be attached to support this Schedule B. (See Schedule A for instructions.) [Section 304(b)(6).]

SCHEDULE C

ITEMIZED EXPENDITURES—COMMUNICATIONS AND NON-COMMUNICATIONS MEDIA

Part No. _____
(Use for itemizing Part 6 or 9)

(Full Name of Candidate or Committee)

SEE REVERSE SIDE FOR INSTRUCTIONS
(Use separate page (s) for each numbered Part)

DATE OF PAYMENT (month, day, year)	PAYEE (Recipient of Payment) Full Name, Mailing Address, (occupation and principal place of business, if any)	PURPOSE OF EXPENDITURE (For communications media expenditures, also specify date(s) of use)	CHECK (✓) EXPENDITURE BY ELECTION					AMOUNT OF EXPENDITURE THIS PERIOD	ALLOCATE EXPENDITURES BY CANDIDATE (To be completed only by Committees supporting more than one candidate)	
			Primary	General	Special	Runoff	Caucus or Convention		Full Name, Congressional District (if applicable), State, and Party	Amount of Expenditure This Period

TOTAL THIS PERIOD _____
(Last page of this Part only)

INSTRUCTIONS FOR PREPARING SCHEDULE C

(See Appropriate Supervisory Officer's Manual for Additional Regulations and Instructions)

Use this form to itemize Expenditures for Part 6 or 9. This form may be duplicated or the information may be itemized on computer printouts or any 8½ x 11" paper providing only the information required in the same format.

This Schedule is to be used to ITEMIZE ONLY THE EXPENDITURES AS SPECIFIED BELOW FOR EACH PART. The "Total This Period" amount for each itemized Part is to be carried forward to the corresponding Part of the Summary Report. When applicable, the total of all other expenditures NOT REQUIRED TO BE ITEMIZED UNDER A GIVEN PART is to be entered as a lump sum on the "UNITEMIZED" line of the appropriate Part of the Summary Report.

Part 6. COMMUNICATIONS MEDIA EXPENDITURES.—This is an account of expenditures in any amount during this reporting period in the communications media, which are defined as television, radio, CATV, newspaper or magazine advertising, outdoor advertising, or expenditures for the costs of telephones, paid telephonists, and automatic telephone equipment used to communicate with potential voters. Itemize as to amount and date of expenditure and other data as indicated in the column headings. Expenditures include not only the direct charges of the media but also agents' commissions which should be separately stated if so billed. Date or dates of use or period of intended use are also required. If an expenditure is for two or more purposes, specify the amount of expenditure allocable to each.

If an expenditure was made before April 7, 1972, for use of communications media after that date, the use and amount must be reported and charged against the candidate's limitation applicable to the election in which used. Report the date or dates of use as well as the amount paid, the payee and other required information on a separate Schedule C appropriately labeled. Do not include the amounts paid in the total expenditures amount for the reporting period.

Only multicandidate committees (*i.e.*, those supporting financially more than one candidate) need allocate each expenditure on behalf of a candidate or candidates in the appropriate space. *Committees supporting a single candidate need state only once that all expenditures are on behalf of that candidate.*

Part 6 includes telephone canvass expenditures which are chargeable to the statutory limitation as communications media expenses, namely, for the costs of telephones, paid telephonists, and automatic telephone equipment obtained for the specific purpose of communicating with potential voters. It does not include normal telephone costs of a candidate, his staff and his authorized committees for campaign purposes, which are reported separately with other expenditures under Part 9. Nor does it include costs incurred by an individual volunteer for use of a telephone by him. [Section 304 (b) (9).]

Part 9. NON-COMMUNICATIONS MEDIA EXPENDITURES.—This is an account of all other expenditures over \$100 made during this reporting period and not included in Parts 7, 8, or 10, itemized as to amount and date of expenditure and other data as indicated in the column headings. If an expenditure is for two or more purposes, specify the amount of expenditure allocable to each.

In Part 9, the only other expenditures that need be allocated in the appropriate space are those of multicandidate committees (*i.e.*, those supporting financially more than one candidate) which are transfers of funds to a candidate or candidates or are specifically identifiable expenditures to or on behalf of a candidate or candidates. *Committees supporting a single candidate need state so only once.*

The schedule includes normal telephone costs of a candidate, his staff and his authorized committees for general campaign purposes; it does not include telephone canvass expenditures which are chargeable to limitation as communications media expenses, as described in the above instructions to Part 6. [Section 304 (b) (9).]

INSTRUCTIONS FOR PREPARING SCHEDULE D

(See Appropriate Supervisory Officer's Manual for Additional Regulations and Instructions)

Use this form to itemize Expenditures for Part 7, 8 or 10. Do not itemize more than one Part on a page. This form may be duplicated or the information may be itemized on computer printouts or any 8½ x 11" paper providing only the information required in the same format.

This Schedule is to be used to **ITEMIZE ONLY THE EXPENDITURES AS SPECIFIED BELOW FOR EACH PART.** The "Total This Period" amount for each itemized Part is to be carried forward to the corresponding Part of the Summary Report. When applicable, the total of all other expenditures **NOT REQUIRED TO BE ITEMIZED UNDER A GIVEN PART** is to be entered as a lump sum on the "UNITEMIZED" line of the appropriate Part of the Summary Report.

Part 7. ITEMIZED EXPENDITURES FOR PERSONAL SERVICES, SALARIES, AND REIMBURSED EXPENSES.—This is an account of expenditures by the committee or candidate for personal services, salaries and reimbursed expenses over \$100 during the reporting period. Give the date, full name and mailing address (occupation and the principal place of business, if any) of the recipient, and purpose of each such expenditure. List the amount of the expenditure in the "Amount of Expenditure This Period" column. [Section 304 (b) (11).]

Part 8. ITEMIZED LOANS MADE.—This is an account of loans made by the committee or candidate during this reporting period in excess of \$100. Give the date, full name and mailing address (occupation and principal place of business, if any) of each person or committee to whom a loan was made. List the amount of the loan in the "Amount of Expenditure This Period" column. [Section 304 (b) (5).]

Part 10. ITEMIZED TRANSFERS OUT TO POLITICAL COMMITTEES AND CANDIDATES.—This is an itemized account giving the date, full name and mailing address of each political committee or candidate to whom any transfer of funds was made within this reporting period in any amount. List the amount of the transfer in the "Amount of Expenditure This Period" column. [Section 304 (b) (4).]

SCHEDULE E
DEBTS AND OBLIGATIONS

(Full Name of Committee)

Part No. _____
(Use for itemizing Part 11 or 12)

SEE REVERSE SIDE FOR INSTRUCTIONS

(Use separate page(s) for each numbered Part)

Date Incurred (month, day, year)	Full Name, Mailing Address, and ZIP Code (occupation and principal place of business, if any)	Amount of Original Debt, Contract, Agree- ment, or Promise	Cumulative Payment To Date	Outstanding Balance at Close of This Period
TOTALS THIS PERIOD (Last page of this Part only)				*

Page _____

*Carry outstanding balance only to appropriate part of summary.

INSTRUCTIONS FOR PREPARING SCHEDULE E

(See Appropriate Supervisory Officer's Manual for Additional Regulations and Instructions)

Use this form to itemize Debts and Obligations Owed by or to the Committee for Part 11 or 12. Do not itemize more than one Part on a page. This form may be duplicated or the information may be itemized on computer printouts or any 8½ x 11" paper providing only the information required in the same format. Obligations as used in these instructions mean contracts, agreements, and promises.

Part 11. DEBTS AND OBLIGATIONS OWED TO THE COMMITTEE.—This is an itemized account of debts and obligations owed to the reporting committee at the close of the reporting period. Give the full name and mailing address (occupation and the principal place of business, if any) of each *debtor*, together with the amount, date, nature of each transaction, cumulative payment(s) received to date, and the outstanding balance at the close of the reporting period. These debts and obligations shall continue to be reported on each subsequent report until extinguished. [Section 304 (b) (12).]

Part 12. DEBTS AND OBLIGATIONS OWED BY THE COMMITTEE.—This is an itemized account of debts and obligations owed by the reporting committee at the close of the reported period. Give the full name and mailing address (occupation and the principal place of business, if any) of each *creditor*, together with the amount, date, nature of each such transaction, cumulative payment(s) made to date, and the outstanding balance at the close of the reporting period. These debts and obligations shall continue to be reported on each subsequent report until extinguished. [Section 304 (b) (12).]

FEDERAL COMMUNICATIONS COMMISSION

v[FCC 72-231]

USE OF BROADCAST AND CABLECAST FACILITIES

Candidates for Public Office

MARCH 16, 1972.

On August 7, 1970, the Commission issued a Public Notice entitled "Use of Broadcast Facilities by Candidates for Public Office" (24 F.C.C. 2d 832). That notice, the so-called "Political Broadcast Primer," consisted of a compilation of the Commission's interpretive rulings under section 315 of the Communications Act of 1934, as amended, and the Commission's rules implementing that section of the Act. It superseded all similar primers that had been previously issued. Since then, additional interpretive rulings have been issued from time to time and published in the FCC Reports. The rulings in the 1970 primer and thereafter apply both to political programs over broadcast stations and those originated by cable television systems (CATV systems).

On February 7, 1972, the Federal Election Campaign Act of 1971 was enacted (Public Law 92-225). It amends sections 312 and 315 of the Communications Act, effective April 7, 1972. This means that the amended sections are applicable to all political broadcasts or CATV cablecasts (program originations) made on or after April 7, whether free or purchased, and whether contracted for prior to that date or not. The purpose of the present Public Notice is to furnish guidelines apprising broadcast station licensees, CATV operators, candidates, and other interested persons of their respective responsibilities and rights under the amended sections. These guidelines are being issued by the Commission after careful study of the legislative history underlying the amendments, and, like the 1970 primer, are issued in question and-answer format.¹

¹ The Federal Election Campaign Act of 1971 consists of four titles. The amendments to the Communications Act are in title I. Other provisions in the new law include limitations on the amount that a candidate for Federal elective office may spend for the use of communications media on behalf of his candidacy, limitations on the expenditures that such candidates may make from their personal funds or the funds of their immediate families in connection with their campaigns, and requirements of detailed reporting by political committees and candidates of the sources and uses of campaign funds. Regulations issued by the Comptroller General under titles I and III, by the Secretary of the Senate under title III, and by the Clerk of the House of Representatives under title III, implement those provisions and also serve to supplement these guidelines. Title IV pertains to extension of credit to candidates for Federal elective office, without security, by the communications and transportation industries. That title does not become effective with regard to the communications industry until the FCC promulgates

The guidelines are being issued in response to a host of inquiries raised by members of the broadcast and cable industries, and others, as to the implications of the amended sections 312 and 315. Their preparation has involved the Commission in some extremely difficult decisions as to congressional intent concerning various aspects of the amendments. Their release is viewed as being in the public interest and consistent with the position taken in the 1970 primer where we said (24 F.C.C. 2d 832, 885):

In response to general inquiries the Commission limits itself to giving general guidelines to help an individual or station determine their rights and obligations under section 315.

Broadly speaking, the guidelines deal with four areas: (1) Definition of "legally qualified candidate," (2) rates to be charged for use of a station² by candidates, (3) certifications stations are required to obtain from candidates, and (4) allowing reasonable access to or permitting purchase of reasonable amounts of time by candidates for Federal elective office.

In some cases, the guidelines supplement present Commission rules governing political broadcasts and the interpretive rulings of the 1970 primer and thereafter. In other cases they are inconsistent with them. Effective April 7, 1972, any inconsistencies between the rules, the 1970 primer, and rulings since 1970 on the one hand, and these guidelines on the other, will be resolved in favor of the guidelines. Generally the guidelines highlight any inconsistencies by referring to the appropriate section of the rules, pertinent questions in the 1970 primer, or rulings made since the issuance of the primer. It is our intent to amend the rules in the future to accommodate the changes in sections 312 and 315. We do not presently envisage the issuance in the near future of a new primer to replace that of 1970. However, as experience accrues, we may find it necessary to modify the present guidelines, or to issue new ones as new problems arise. Some questions are intentionally not raised in the guidelines since they would best be handled on a case-by-case basis.

The recommended complaint procedures set forth in the 1970 primer (24 F.C.C. 2d 832, 834-5) were written largely for the purpose of dealing with requests for "equal opportunity" under the provisions of section 315. However, they are

rules on the subject, which must be done by May 7, 1972. The Commission will soon issue a Notice of Proposed Rule Making in regard to this.

² The amended sections 312 and 315 apply to both broadcast stations and cable television systems, except that, as the "reasonable access" guidelines indicate, cable systems that lack cablecasting facilities and are not required by the Commission's rules to have them need not provide such facilities pursuant to section 312(a) (7). Therefore, as was the case with the 1970 primer, the guidelines are applicable to both broadcast stations and cable television systems. References to "stations" and "licensees" include "cable television systems" and "cable television system operators."

valid for and should be followed in cases involving disputes about other matters such as whether a candidate was charged the proper rates, or whether he was allowed reasonable access to a station or whether he was permitted to purchase reasonable amounts of time. In such cases, of course, the detailed statement of the complainant called for in (iii) of the penultimate paragraph of the complaint procedures in the 1970 primer should be modified to fit the particular complaint.

To make use of the guidelines easier, they are preceded by title I of the Federal Election Campaign Act of 1971 which amends sections 312 and 315 of the Communications Act; sections 312 and 315 as they presently read and as amended; and the Commission's rules governing political broadcasts and cablecasts. Insofar as the Commission's sponsorship identification rules are pertinent to this subject the reader is referred to the 1970 primer (24 F.C.C. 2d 832, 837-8). The immediately following section contains title I of the Federal Election Campaign Act of 1971.

I—THE NEW LAW

TITLE I—CAMPAIGN COMMUNICATIONS

SHORT TITLE

SEC. 101. This title may be cited as the "Campaign Communications Reform Act."

DEFINITIONS

SEC. 102. For purposes of this title:

(1) The term "communications media" means broadcasting stations, newspapers, magazines, outdoor advertising facilities, and telephones; but, with respect to telephones, spending or an expenditure shall be deemed to be spending or an expenditure for the use of communications media only if such spending or expenditure is for the costs of telephones, paid telephonists, and automatic telephone equipment, used by a candidate for Federal elective office to communicate with potential voters (excluding any costs of telephones incurred by a volunteer for use of telephones by him).

(2) The term "broadcasting station" has the same meaning as such term has under section 315(f) of the Communications Act of 1934.

(3) The term "Federal elective office" means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States (and for purposes of section 103(b) such term includes the office of Vice President).

(4) The term "legally qualified candidate" means any person who (A) meets the qualifications prescribed by the applicable laws to hold the Federal elective office for which he is a candidate, and (B) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors.

(5) The term "voting age population" means resident population, eighteen years of age and older.

(b) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

MEDIA RATE AND RELATED REQUIREMENTS

SEC. 103. (a) (1) Section 315(b) of the Communications Act of 1934 is amended to read as follows:

"(b) The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public

office in connection with his campaign for nomination for election, or election, to such office shall not exceed—

"(1) During the forty-five days preceding the date of a primary or primary runoff election and during the sixty days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and

"(2) At any other time, the charges made for comparable use of such station by other users thereof."

(2) (A) Section 312(a) of such Act is amended by striking "or" at the end of clause (5), striking the period at the end of clause (6) and inserting in lieu thereof a semicolon and "or", and adding at the end of such section 312(a) the following new paragraph:

"(7) For wilful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy."

(B) The second sentence of section 315(a) of such Act is amended by inserting "under this subsection" after "No obligation is imposed".

(b) To the extent that any person sells space in any newspaper or magazine to a legally qualified candidate for Federal elective office, or nomination thereto, in connection with such candidate's campaign for nomination for, or election to, such office, the charges made for the use of such space in connection with his campaign shall not exceed the charges made for comparable use of such space for other purposes.

LIMITATIONS OF EXPENDITURES FOR USE OF COMMUNICATIONS MEDIA

SEC. 104. (a) (1) Subject to paragraph (4), no legally qualified candidate in an election (other than a primary or primary runoff election) for a Federal elective office may—

(A) Spend for the use of communications media on behalf of his candidacy in such election a total amount in excess of the greater of—

(i) 10 cents multiplied by the voting age population (as certified under paragraph (5)) of the geographical area in which the election for such office is held, or

(ii) \$50,000, or

(B) Spend for the use of broadcast stations on behalf of his candidacy in such election a total amount in excess of 60 per centum of the amount determined under subparagraph (A) with respect to such election.

(2) No legally qualified candidate in a primary election for nomination to a Federal elective office, other than President, may spend—

(A) For the use of communications media, or

(B) For the use of broadcast stations,

on behalf of his candidacy in such election a total amount in excess of the amounts determined under paragraph (1) (A) or (B), respectively, with respect to the general election for such office. For purposes of this subsection a primary runoff election shall be treated as a separate primary election.

(3) (A) No person who is a candidate for presidential nomination may spend—

(i) For the use in a State of communications media, or

(ii) For the use in a State of broadcast stations,

on behalf of his candidacy for presidential nomination a total amount in excess of the amounts which would have been determined under paragraph (1) (A) or (B), respectively, had he been a candidate for election for the office of Senator from such State (or for the

office of Delegate or Resident Commissioner in the case of the District of Columbia or the Commonwealth of Puerto Rico).

(B) For purposes of this paragraph (3), a person is a candidate for presidential nomination if he makes (or any other person makes on his behalf) an expenditure for the use of any communications medium on behalf of his candidacy for any political party's nomination for election to the office of President. He shall be considered to be such a candidate during the period—

(i) Beginning on the date on which he (or such other person) first makes such an expenditure (or, if later, January 1 of the year in which the election for the office of President is held), and

(ii) Ending on the date on which such political party nominates a candidate for the office of President.

For purposes of this title and of section 315 of the Communications Act of 1934, a candidate for presidential nomination shall be considered a legally qualified candidate for public office.

(C) The Comptroller General shall prescribe regulations under which any expenditure by a candidate for presidential nomination for the use in two or more States of a communications medium shall be attributed to such candidate's expenditure limitation in each such State, based on the number of persons in such State who can reasonably be expected to be reached by such communications medium.

(4) (A) For purposes of subparagraph (B):

(i) The term "price index" means the average over a calendar year of the Consumer Price Index (all items—U.S. city average) published monthly by the Bureau of Labor Statistics.

(ii) The term "base period" means the calendar year 1970.

(B) At the beginning of each calendar year (commencing in 1972), as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Comptroller General and publish in the FEDERAL REGISTER the per centum difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each amount determined under paragraph (1) (A) (i) and (ii) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

(5) Within 60 days after the date of enactment of this Act, and during the first week of January in 1973 and every subsequent year, the Secretary of Commerce shall certify to the Comptroller General and publish in the FEDERAL REGISTER an estimate of the voting age population of each State and congressional district for the last calendar year ending before the date of certification.

(6) Amounts spent for the use of communications media on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) shall, for the purposes of this subsection, be deemed to have been spent by such candidate. Amounts spent for the use of communications media by or on behalf of any legally qualified candidate for the office of Vice President of the United States shall, for the purposes of this section, be deemed to have been spent by the candidate for the office of President of the United States with whom he is running.

(7) For purposes of this section and section 315(c) of the Communications Act of 1934—

(A) spending and charges for the use of communications media include not only the direct charges of the media but also agents commissions allowed the agent by the media, and

(B) Any expenditure for the use of any communications medium by or on behalf of the candidacy of a candidate for Federal elective office (or nomination thereto) shall be charged against the expenditure limitation under this subsection applicable to the election in which such medium is used.

(b) No person may make any charge for the use by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) of any newspaper, magazine, or outdoor advertising facility, unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies in writing to the person making such charge that the payment of such charge will not violate paragraph (1), (2), or (3) of subsection (a), whichever is applicable.

(c) Section 315 of the Communications Act of 1934 is amended by redesignating subsection (c) as subsection (g) and by inserting after subsection (b) the following new subsections:

"(c) No station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate any limitation specified in paragraph (1), (2), or (3) of section 104(a) of the Campaign Communications Reform Act, whichever paragraph is applicable.

"(d) If a State by law and expressly—

"(1) Has provided that a primary or other election for any office of such State or of a political subdivision thereof is subject to this subsection,

"(2) Has specified a limitation upon total expenditures for the use of broadcasting stations on behalf of the candidacy of each legally qualified candidate in such election,

"(3) Has provided in any such law an unequivocal expression of intent to be bound by the provisions of this subsection, and

"(4) Has stipulated that the amount of such limitation shall not exceed the amount which would be determined for such election under section 104(a) (1) (B) or 104(a) (2) (B) (whichever is applicable) of the Campaign Communications Reform Act had such election been an election for a Federal elective office or nomination thereto;

Then no station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate in such election unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate such State limitation.

"(e) Whoever willfully and knowingly violates the provisions of subsection (c) or (d) of this section shall be punished by a fine not to exceed \$5,000 or imprisonment for a period not to exceed 5 years, or both. The provisions of sections 501 through 503 of this Act shall not apply to violations of either such subsection.

"(f) (1) For the purposes of this section:

"(A) The term 'broadcasting station' includes a community antenna television system.

"(B) The terms 'licensee' and 'station licensee' when used with respect to a community antenna television system, means the operator of such system.

"(C) The term 'Federal elective office' means the office of the President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States.

"(2) For purposes of subsections (c) and (d), the term 'legally qualified candidate'

means any person who (A) meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate and (B) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors."

REGULATIONS

SEC. 105. The Comptroller General shall prescribe such regulations as may be necessary or appropriate to carry out sections 102, 103(b), 104(a), and 104(b) of this Act.

PENALTIES

SEC. 106. Whoever willfully and knowingly violates any provision of section 103(b), 104(a), or 104(b) or any regulation under section 105 shall be punished by a fine of not more than \$5,000 or by imprisonment of not more than 5 years, or both.

For purposes of clarification, sections II and III of this public notice set forth the new language of sections 312(a) and 315 of the Communications Act as amended in accordance with Title I of the Federal Election Campaign Act of 1971. Section IV sets forth the language of the Commission's present rules governing political broadcasting.

II—SECTION 312(a) OF THE COMMUNICATIONS ACT (AS AMENDED)

Effective April 7, 1972, section 312(a) of the Communications Act of 1934 will read as follows (previously existing law which will remain unchanged is shown in roman; previously existing matter deleted by the Campaign Communications Reform Act is enclosed in brackets; new matter added by the Campaign Communications Reform Act is printed in italic):

SEC. 312. (a) The Commission may revoke any station license or construction permit—

- (1) For false statements knowingly made either in the application or in any statement of fact which may be required pursuant to section 308;
- (2) Because of conditions coming to the attention of the Commission which would warrant it in refusing to grant a license of permit on an original application;
- (3) For willful or repeated failure to operate substantially as set forth in the license;
- (4) For willful or repeated violation of, or willful or repeated failure to observe any provision of this Act or any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States;
- (5) For violation of or failure to observe any final cease and desist order issued by the Commission under this section; [or]
- (6) For violation of section 1304, 1343, or 1464 of title 18 of the United States Code [.] ; or
- (7) For willful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy.

III—SECTION 315 OF THE COMMUNICATIONS ACT (AS AMENDED)

Effective April 7, 1972, section 315 of the Communications Act of 1934 will read as follows (previously existing law which will remain unchanged is shown in roman; previously existing law deleted by the Campaign Communications Reform Act is enclosed in brackets; new

matter added by Act is that printed in italic):

SEC. 315. (a) If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided,*³ That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby⁴ imposed under this subsection upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidate on any—

- (1) Bona fide newscast,
- (2) Bona fide news interview,
- (3) Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or
- (4) On-the-spot coverage of bona fide news events (included but not limited to political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

[(b) The charges made for the use of any broadcasting station for any of the purposes set forth in this section shall not exceed the charges made for comparable use of such station for other purposes.]

(b) *The charges made for the use of any broadcast station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed—*

- (1) *During the 45 days preceding the date of a primary or primary runoff election and during the 60 days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and*
- (2) *At any other time, the charges made for comparable use of such station by other users thereof.*

(c) *No station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate any limitation specified in paragraph (1), (2), or (3) of section 104(a) of the Campaign Communications Reform Act, whichever paragraph is applicable.*

(d) *If a State by law and expressly—*

- (1) *Has provided that a primary or other election for any office of such State or of a political subdivision thereof is subject to this subsection,*
- (2) *Has specified a limitation upon total expenditures for the use of broadcasting stations on behalf of the candidacy of each legally qualified candidate in such election,*

³ This word, although italicized, is not new matter. It appears in italic in the present law and remains in italic in the new law.

⁴ The word *hereby* is not included in the United States Code (47 U.S.C. 315) but appears in the Statutes at Large (66 Stat. 717).

(3) *Has provided in any such law an unequivocal expression of intent to be bound by the provisions of this subsection, and*

(4) *Has stipulated that the amount of such limitation shall not exceed the amount which would be determined for such election under section 104(a)(1)(B) or 104(a)(2)(B) (whichever is applicable) of the Campaign Communications Reform Act had such election been an election for a Federal elective office or nomination thereto,*

then no station licensee may take any charge for the use of such station by or on behalf of any legally qualified candidate in such election unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate such State limitation.

(e) *Whoever willfully and knowingly violates the provisions of subsection (c) or (d) of this section shall be punished by a fine not to exceed \$5,000 or imprisonment for a period not to exceed five years, or both. The provisions of sections 501 through 503 of this Act shall not apply to violations of either such subsection.*

(f) (1) *For the purposes of this section: (A) The term 'broadcasting station' includes a community antenna television system.*

(B) *The terms 'licensee' and 'station licensee' when used with respect to a community antenna television system, means the operator of such system.*

(C) *The term 'Federal elective office' means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States.*

(2) *For purposes of subsections (c) and (d), the term 'legally qualified candidate' means any person who (A) meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate and (B) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors.*

[(c)](g) *The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.*

IV—THE COMMISSION'S RULES AND REGULATIONS WITH RESPECT TO POLITICAL BROADCASTS AND CABLECASTS

The Commission's present rules and regulations with respect to political broadcasts coming within section 315 of the Communications Act are set forth in §§ 73.120 (AM), 73.290 (FM), 73.590 (noncommercial educational FM), and 73.657 (TV), respectively. These provisions are identical (except for elimination of any discussion of charges in § 73.590 relating to noncommercial educational FM stations) and read as follows:

Broadcasts by candidates for public office—

(a) *Definitions.* A "legally qualified candidate" means any person who has publicly announced that he is a candidate for nomination by a convention of a political party or for nomination or election in a primary, special, or general election, municipal, county, State or national, and who meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate, so that he may be voted for by the electorate directly or by means of delegates or electors, and who:

- (1) Has qualified for a place on the ballot or
- (2) Is eligible under the applicable law to be voted for by sticker, by writing in his name on the ballot, or other method, and (i) has been duly nominated by a political

party which is commonly known and regarded as such, or (ii) makes a substantial showing that he is a bona fide candidate for nomination or office, as the case may be.

(b) *General requirements.* No station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all such other candidates for that office to use such facilities: *Provided*, That such licensee shall have no power of censorship over the material broadcast by any such candidate.

(c) *Rates and practices.* (1) The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means direct or indirect. A candidate shall, in each case, be charged no more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. All discount privileges otherwise offered by a station to commercial advertisers shall be available upon equal terms to all candidates for public office.

(2) In making time available to candidates for public office no licensee shall make any discrimination between candidates in charges, practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

(d) *Records; inspection.* Every licensee shall keep and permit public inspection of a complete record of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if request is granted. Such records shall be retained for a period of 2 years.

NOTE: See § 1.526 of this chapter.

(e) *Time of request.* A request for equal opportunities must be submitted to the licensee within 1 week of the day on which the first prior use, giving rise to the right of equal opportunities, occurred: *Provided, however*, That where the person was not a candidate at the time of such first prior use, he shall submit his request within 1 week of the first subsequent use after he has become a legally qualified candidate for the office in question.

(f) *Burden of proof.* A candidate requesting such equal opportunities of the licensee, or complaining of noncompliance to the Commission shall have the burden of proving that he and his opponent are legally qualified candidates for the same public office.

The Commission's present rules and regulations with respect to political cablecasts coming within section 315 of the Communications Act are set forth in §§ 76.5(y) and 76.205, which read as follows:

Section 76.5 *Definitions.* * * * (y) *Legally qualified candidate.* Any person who has publicly announced that he is a candidate for nomination by a convention of a political party or for nomination or election in a primary, special, or general election, municipal, county, State, or National, and who meets the qualifications prescribed by the

applicable laws to hold the office for which he is a candidate, so that he may be voted for by the electorate directly or by means of delegates or electors, and who:

(1) Has qualified for a place on the ballot, or

(2) Is eligible under the applicable law to be voted for by sticker, by writing his name on the ballot, or other method, and (i) has been duly nominated by a political party which is commonly known and regarded as such, or (ii) makes a substantial showing that he is a bona fide candidate for nomination or office.

Section 76.205 *Origination cablecasts by candidates for public office.* (a) *General requirements.* If a cable television system shall permit any legally qualified candidate for public office to use its origination channel (s) and facilities therefor, it shall afford equal opportunities to all other such candidates for that office: *Provided, however*, That such system shall have no power of censorship over the material cablecast by any such candidate: *And provided, further*, That an appearance by a legally qualified candidate on any:

(1) Bona fide newscast,

(2) Bona fide news interview,

(3) Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or

(4) On-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto),

shall not be deemed to be use of the facilities of the system within the meaning of this paragraph.

NOTE: The fairness doctrine is applicable to these exempt categories. See § 76.209.

(b) *Rates and practices.* (1) The rates, if any, charged all such candidates for the same office shall be uniform, shall not be rebated by any means direct or indirect, and shall not exceed the charges made for comparable origination use of such facilities for other purposes.

(2) In making facilities available to candidates for public office no cable television system shall make any discrimination between candidates in charges, practices, regulations, facilities, or services for or in connection with the service rendered, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any cable television system make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to cablecast to the exclusion of other legally qualified candidates for the same public office.

(c) *Records; inspections.* Every cable television system shall keep and permit public inspection of a complete record of all requests for origination cablecasting time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the system of such requests, the charges made, if any, and the length and time of cablecast, if the request is granted. Such records shall be retained for a period of two years.

(d) *Time of request.* A request for equal opportunities for use of the origination channel(s) must be submitted to the cable television system within one (1) week of the day on which the first prior use, giving rise to the right of equal opportunities, occurred: *Provided, however*, That where a person was not a candidate at the time of such first prior use, he shall submit his request within one (1) week of the first subsequent use after he has become a legally qualified candidate for the office in question.

(e) *Burden of proof.* A candidate requesting such equal opportunities of the cable

television system, or complaining of noncompliance to the Commission, shall have the burden of proving that he and his opponent are legally qualified candidates for the same public office.

The Commission guidelines for interpreting the Federal Election Campaign Act of 1971 appear in the following sections V through VIII.⁵

V—SECTION 315—LEGALLY QUALIFIED CANDIDATES

V. 1. Q. Who is a "legally qualified candidate" for purposes of section 315(a)?

A. The definition of paragraph (a) [y] of the Commission rules applies for the purposes of administering section 315(a). (See IV above and IV in the 1970 primer.) However, section 104(a)(3)(B) of the Campaign Communications Reform Act requires some explanatory remarks concerning candidates for presidential nomination. Broadly speaking, clause (i) of that section provides that a person is a candidate for presidential nomination if, on or after a specified date, he makes (or any other person makes on his behalf) an expenditure for the use of a communications medium on behalf of his candidacy for nomination. (This provision is subject to interpretation by regulations to be issued by the Comptroller General of the United States.) The section also states that a person who is a candidate for presidential nomination is, for purposes of section 315 of the Communications Act, considered to be a legally qualified candidate for public office.

Paragraph (a) [y] of the Commission rules provides that a person is not a legally qualified candidate within the meaning of the statute unless he has publicly announced his intention to be a candidate. (See Q. and A. IV.18. of the 1970 primer.) New section 104(a)(3)(B) means that a person who had made an expenditure as described in that section is a legally qualified candidate for presidential nomination, even

⁵ For convenience, in the remainder of this public notice, references to any paragraph of the political broadcast or cablecast rules will be by paragraph only. For example, "paragraph (a) [y]" of the Commission rules will mean "§§ 73.120(a), 73.290(a), 73.590(a), and 73.657(a) of the political broadcast rules and the corresponding § 76.5(y) of the political cablecast rules."

Attention is invited to the fact that some paragraphs of the present political broadcast and cablecast rules are inconsistent with the guidelines herein. For example, paragraphs (b) and (c)(1) of the political broadcast rules are inconsistent with the guidelines which implement the new sections 312(a)(7) and 315(b)(1) of the Communications Act (which respectively require broadcast stations to give reasonable access to candidates for Federal elective office, and to charge all candidates not more than "lowest unit charges" during specified periods before elections.) As stated in the fifth paragraph of this public notice, such inconsistencies are to be resolved in favor of the guidelines. In the future, the Commission will amend the present political broadcast and cablecast rules to conform with the guidelines.

though no public announcement of candidacy has been made, and hence is entitled to equal opportunity under section 315(a) of the Communications Act. However, section 104(c) of the Campaign Communications Reform Act amends section 315(c) of the Communications Act to provide that no communications medium may make any charge for the use of its facilities by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) unless such candidate (or a person specifically authorized by such candidate in writing to do so) submits a certification to the licensee that the payment of the charge will not exceed the spending limitation set forth in the new law. In cases where a person has made the expenditure mentioned in section 104(a)(3)(B) but has not publicly announced his candidacy, we shall construe the submission of the aforementioned certificate and the expenditure as constituting a public announcement as of the date of the broadcast or publication in other communications media of the matter for which the expenditure is made.

Moreover, we interpret the intent of Congress to be that the mere making of minimal expenditures under the provisions of section 104(a)(3)(B) does not entitle a person to equal opportunity under section 315(a). Thus, for example, a person who has taken out a \$5 advertisement in a newspaper, and submitted a certification in connection therewith, would not, in the absence of other facts to demonstrate the bona fides of his candidacy, be entitled to equal opportunity under section 315(a).

2. Q. To whom do the "lowest unit charge" provisions of section 315(b)(1) apply?

A. With one exception, section 315(b)(1) applies to all persons who meet the requirements of a "legally qualified candidate" for purposes of section 315(a) as discussed in Q. and A. V. 1. above. The exception is that it does not apply to candidates for nomination by a convention or a caucus of a political party held to nominate a candidate since the special rate provision of section 315(b)(1) by its express terms applies only during the 45 days preceding the date of a primary or a primary runoff election and during the 60 days preceding the date of a general or special election in which a person is a candidate. Thus, for example, a person campaigning in a State in an effort to have the State convention of a political party select delegates to a national nominating convention who are favorable to him would not be entitled to the lowest unit charge. Similarly, a person campaigning to have a State convention nominate him for State office, or for U.S. Senator or Representative, would not be entitled to the lowest unit charge. In a situation where a person is campaigning in a primary election in which delegates will be selected to go to a State convention which in turn will select delegates to a national convention, the lowest unit charge provision would apply to that person during the 45 days preceding the primary.

3. Q. To whom do the "comparable use" provisions of section 315(b)(2) apply?

A. Unlike section 315(b)(1), section 315(b)(2) has no restrictive provisions, and applies to all persons who are legally qualified candidates for the purposes of section 315(a) as discussed in Q. and A. V. 1. above; whether running in an election or seeking nomination by a party convention.

4. Q. To what "legally qualified candidates" do the certification provisions of section 315(c) apply?

A. They apply to "legally qualified candidates" as the term is defined in section 315(f)(2), who are seeking to hold "Federal elective office" as the term is defined in section 102(3) of the Campaign Communications Reform Act. This definition of "legally qualified candidate" is intended to be used only with regard to the certification required by the provisions of section 315(c) and the spending limitation provisions of section 104(a)(1) and (2) of the Campaign Communications Reform Act referred to in section 315(c). The Commission is of the view that the definition of section 315(f)(2)(B) does not include situations where a person is seeking nomination for U.S. Senator or Representative by a convention or caucus held to nominate such candidates and that the provisions of section 315(c) do not apply to such persons. The Commission believes that the provisions of section 315(c) do apply to persons qualifying as candidates for presidential nomination under the spending provisions of section 104(a)(3)(A)(i) whether they are running in a primary election or are seeking to influence the action of a State convention of a political party that will select delegates to its national nominating convention.

5. Q. To what "legally qualified candidates" do the provisions of section 315(d) apply?

A. They apply to all "legally qualified candidates" for any office of a State or political subdivision thereof who meet the definition of "legally qualified candidate" set forth in section 315(f)(2) if the State has taken the steps mentioned in section 315(d). The definition of section 315(f)(2)(B) does not apply to situations where a person is seeking nomination for State office by a caucus or convention, and the provisions of section 315(d) do not apply to such candidates.

VI—SECTION 315—LOWEST UNIT CHARGE

VI. 1. Q. What is the meaning of "lowest unit charge of the station for the same class and amount of time for the same period" in section 315(b)(1)?

A. The term "class" refers to rate categories such as fixed-position spots, preemptible spots, run-of-schedule and special-rate packages. The term "amount of time" refers to the unit of time purchased, such as 30 seconds, 60 seconds, 5 minutes or 1 hour. The term "same period" refers to the period of the broadcast day such as prime time, drive time, class A, class B or other classifications established by the station.

Candidates are entitled to discounts, frequency and otherwise, offered to the

most favored commercial advertiser for the same class and amount of time for the same period, without regard to the frequency of use by the candidate. This includes discount rates not published in a rate card but provided to commercial advertisers. Some examples follow:

(a) A licensee sells one fixed-position, 1-minute spot in prime time to commercial advertisers for \$15. It sells 500 such spots for \$5,000. It must sell one such spot to a candidate for not more than \$10.

(b) A licensee sells one immediately preemptible 30-second spot in drive time to commercial advertisers for \$10. It sells 100 such spots for \$750. It must sell one such spot to a candidate for not more than \$7.50.

(c) A licensee's best rate per spot for run-of-schedule, 1-minute spots is 1,000 for \$1,000. Its rate for one such run-of-schedule spot is \$4. It must sell one such spot to a candidate for not more than \$1.

2. Q. May the lowest unit charge vary with the day of the week on which a candidate uses a station?

A. Yes. For example, a television station might charge commercial advertisers more for 1-minute, fixed-position spots between 7:00-7:30 p.m. on Sunday than it does for such spots on Monday through Friday; and the charges on Monday through Friday might exceed the charges for such spots on Saturday. In computing the lowest unit charge which must not be exceeded in selling time to candidates, stations, in addition to taking into account the class and amount of time for the same period of the day, may take into account the day of the week, if rates of the station vary with the day of the week. In the example given above, the station would not be required to sell time to a candidate for use on Sunday between 7:00-7:30 p.m. at rates not exceeding the lowest unit charge for Saturday night. If a station does not vary its charges to commercial advertisers with the day of the week, it may not do so with candidates for public office.

3. Q. A general election is to be held on November 2. As required by section 315(b), the lowest unit charge must be made to candidates during the preceding 60 days, commencing September 3. Pursuant to normal practices, a station on September 20 changes from its summer rates to its higher fall rates. Is the lowest unit charge during the entire 60-day period preceding the election based on summer rates?

A. No. From September 3 to September 20, the lowest unit charge is based on the summer rates. On and after September 20, the fall rates are used as the basis for computation of the lowest unit charge. Compare Q. and A. VI. 8. through 12. below.⁶

4. Q. For a particular community, ARB and Nielsen television market reports are issued six times a year. Upon receipt of these reports it is the normal

⁶ At the present time, of course, such changes in rates are subject to any statements of policy, guidelines, or regulations issued by the Price Commission under the Economic Stabilization Program.

business practice of a television station in the community to reexamine its rates and revise some of them. During the 60-day period preceding a general election, such a rate revision occurs which results in increased rates for adjacencies to program A shown in prime time, and a decrease in rates for adjacencies to program B in prime time. What is the basis for calculation of the lowest unit charge for adjacencies to the two programs during the 60-day period?

A. Candidates using adjacencies to either program A or program B prior to the rate change are entitled to be charged not more than the lowest unit rate for such adjacencies prior to the rate change, and those using adjacencies to either program after the rate change are entitled to be charged not more than the lowest unit charge after the rate change. Thus, the lowest unit rate for candidates for adjacencies to program A prior to the rate change is lower than the lowest unit rate after the rate change. As to adjacencies to program B, the lowest unit rate prior to the rate change is higher than the lowest unit rate after the rate change. Compare Q. and A. VI. 8. through 12. below.⁶

5. Q. Do the lowest unit charge provisions apply to purchase of time on the networks?

A. Yes. The Commission is of the view that although the Campaign Communications Reform Act does not specifically refer to networks, the provisions are intended to apply to purchase of network time. A network is in a real sense selling time on behalf of station licensees and the Commission interprets new section 315(b)(1) as applying to the combination of licensees in the network as well as to the individual licensees. Thus, charges to legally qualified candidates purchasing network time may not exceed the lowest unit charge for the same class and amount of time for the same period of the broadcast day on a network. Candidates are entitled to be charged not more than the lowest unit rate regardless of the number of times they use the network. For example, if a television network gives a discount for advertisers who contract in advance on a noncancellable basis for at least one 1-minute commercial announcement for broadcast in one or more specified programs in prime time at least once a fortnight on a regular schedule over a 52-week period, a candidate would be entitled to that discount even though purchasing only one such spot announcement. At intervals, a television network may change the spot announcement charges for a particular program depending on the viewer ratings for the program. If commercial advertiser A has contracted in advance for a spot on a program to be broadcast on a certain date, and if because of low viewer ratings the price being offered to other advertisers for spots on the program on that date is lower than the price contracted for by A, advertiser A must none-

theless pay the higher price for which he contracted. Such will not be the case for a candidate under the provisions of section 315(b)(1). If the price of a spot on the date of use is lower than the price for which he contracted in advance, he will be entitled to the lower price and is to be given a rebate (if the spot has been previously paid for) or an adjustment (if the spot has not yet been paid for). Moreover, if the lower price (on the date of use) just mentioned is not as low as the lowest unit charge made to advertisers who enter into the 52-week type of contract mentioned above, the candidate is entitled to be charged the lowest unit rate based on the 52-week contract even though he purchases only one spot.

The upshot of the foregoing is that a candidate falling under the provisions of section 315(b)(1) will be entitled to the lowest unit charge on the date of use of the network regardless of the date on which he places or pays for his order for time. We emphasize that it is the date of network use that will govern the charge made to any candidate. Thus if \$40,000 is the lowest unit charge for a 1-minute spot announcement on a particular program in prime time on October 1, and \$50,000 is the lowest unit charge for a 1-minute spot on that program in prime time on October 22, candidate A who purchases a 1-minute spot broadcast on October 1 pays \$40,000, and candidate B who purchases a 1-minute spot broadcast on October 22 pays \$50,000. This difference in price charged the two candidates is not inconsistent with paragraph (c) [b] of the Commission rules (which provides that there shall be no discrimination between candidates as to charges) for both candidates are receiving the lowest unit rate at the time of use, that rate being based on audience exposure and giving candidate B greater exposure than A. (See Q. and A. VI. 3. and 4. above. The difference in rates therein are also correlated with audience size. See also footnote 6 above.)

Attention is invited to the fact that the foregoing discussion of network charges to candidates is applicable to uses of a network not involving "equal opportunity" under section 315(a). For "equal opportunity" situations, the principle set forth in Q. and A. VI. 8., below, applies. Thus, if candidate A has a 1-minute spot on a network on October 1 for \$40,000, candidate B exercising "equal opportunity" rights on October 22 pays \$40,000 rather than \$50,000.

6. Q. During the 60-day period preceding a general election there are no changes in rates of the kind mentioned in Q. and A. VI. 3. and 4. above. A licensee observes that on a particular date he has some unsold time available during prime time hours. Preferring to realize something rather than nothing for that time, he approaches and sells to an advertiser three 1-minute, fixed-position spots in prime time at an extremely low rate. The unit charge for the three spots is lower than the lowest unit charge for such spots based on "normal" rates prevailing during the 60-day period. What is the effect of this in calculating lowest unit charge for the 60-day period?

A. The extremely low rate should be viewed as the lowest unit charge, because it is the lowest charge available to commercial advertisers and it was possible for it to have been afforded on any day of the 60-day period. In view of this consideration and the possibility of abuse (by favoring commercial advertisers or one candidate over another), the giving of such an extremely low rate on any date will not only set a new standard for the calculation of lowest unit charge on that date and the remainder of the period, but all candidates who have used the station prior to that date will be entitled to refunds to bring the charges to them in line with that extremely low rate. To afford some certainty in this respect, the appropriate period to which this holding applies is the 45- or 60-day period; affording extremely low rates on an ad hoc basis outside these periods thus is not relevant to the issue of the lowest unit charge.

7. Q. Candidate A purchases 50 fixed-position, 1-minute spots in prime time to be aired prior to the 45- or 60-day period preceding an election and pays for the time on the basis of "comparable use" as provided in section 315(b)(2). Pursuant to section 315(a), candidate B is entitled to "equal opportunity" to respond to candidate A, and candidate B purchases 50 such spots for his response, which spots are to be aired during the 45- or 60-day period. On what basis is candidate B charged?

A. Candidate B may be charged not more than the lowest unit charge prevailing during the 45- or 60-day period. Had candidate B responded to candidate A prior to the 45- or 60-day period, he would have been charged on a "comparable use" basis, just like candidate A. However, since the statute provides for a lowest unit charge basis for uses during the 45- or 60-day period, candidate B is charged on that basis. Paragraph (c) [b] of the Commission rules on political broadcasts provides that a station shall not discriminate between candidates in charges, but this does not amount to discrimination since the difference in charges is set by statute.

8. Q. During the 60-day period preceding a general election, the rates of a station, pursuant to normal business practices, change from summer to higher fall rates. The lowest unit charges are therefore less before the rate change than afterwards. (See Q. and A. VI. 3. above.) Candidate A purchases 50 fixed-position, 1-minute spots in prime time to be aired before the rate change. Pursuant to section 315(a), candidate B is entitled to equal opportunity to respond to candidate A, and candidate B purchases 50 such spots for his response, which spots are to be aired after the seasonal rate change. Is candidate B charged a higher rate?

A. Although in situations not involving "equal opportunity" the lowest unit charge for candidates using the station prior to the seasonal rate change is based on summer rates, and for those using the station after the change is based on fall rates, the situation is different in cases

⁶At the present time, of course, such changes in rates are subject to any statements of policy, guidelines, or regulations issued by the Price Commission under the Economic Stabilization Program.

involving "equal opportunity." The candidate in such a situation is entitled to be charged on the same basis as the candidate to whom he is responding. Therefore, in this situation, the rate charged candidate B must be the same as that charged candidate A (which rate cannot exceed the lowest unit charge based on summer rates). (Compare Q. and A. VIII. 21. in the 1970 primer.)

9. Q. During the 60-day period preceding a general election, the rates of a station, pursuant to normal business practices, change from summer to higher fall rates. The lowest unit charges are therefore less before the rate change than afterwards. (See Q. and A. VI. 3. above.) Candidate A purchases 50 fixed-position, 1-minute spots in prime time to be aired before the rate change. Pursuant to section 315(a), candidate B requests "equal opportunity" to respond to candidate A in fixed-position, 1-minute spots in prime time to be aired after the seasonal rate change. Candidate B requests 100 such spots. At what rate is candidate B charged?

A. Candidate B is entitled to 50 such spots at the rate charged candidate A to satisfy the "equal opportunity" requirement. For the remaining 50 spots he may be charged not more than the lowest unit rate based on the higher fall rates. It should be noted that the sale to candidate B of 50 spots at the low summer rates to satisfy the "equal opportunity" requirement does not affect the rates to be charged him or other candidates using the station after the change to the higher fall rates on other than an "equal opportunity" basis.

10. Q. A commercial advertiser has over a period of years had a contract for commercial spot announcements with a station and that contract has been renewed from time to time with unchanged rates set at the time the contract was entered into although the rates of the station to other advertisers have increased. Thus, the lowest unit charge of the station for the same class and amount of time for the same period computed by using current rates to other advertisers is higher than the lowest unit charge based on the rates being given to the advertiser with the "rate protection agreement." In calculating the lowest unit charge for a candidate who qualifies for such charges under section 315(b) (1), is it correct to use as a basis for the calculation the current rates generally held out to advertisers in the community?

A. No. The candidate is entitled to the lowest unit charge for the same class and amount of time for the same period. Since the lowest unit charge is that being given to the advertiser with the contract of long standing, that charge must be made to the candidate. Compare Q. and A. VIII. 13. in the 1970 primer.

11. Q. A candidate, prior to April 7, 1972, has contracted for use of a station after that date. The date(s) of use contracted for occurs during the 45- or 60-day period before an election. The contract price was at rates not exceeding those made to commercial advertisers for comparable use of the station, as

provided in section 315(b) of the Communications Act prior to its amendment by the Campaign Communications Reform Act. Is the candidate entitled to a refund if payment to the station has been made prior to the time of use, or to an adjustment in the charges if payment has not been made at or before the time of use, so that he will pay on a lowest unit charge basis?

A. Yes. The lowest unit charge applies to all uses falling under the provisions of section 315(b) (1) which occur on or after April 7, 1972, regardless of the date of contract.

12. Q. On or after April 7, 1972, a candidate contracts with a station for use of its facilities on a specified date or dates in the future, which dates occur within a 45- or 60-day period before an election. The price for the use of the facilities is stated in the contract. At the time of use of the facilities, the rates of the station have changed because, for example, of normal seasonal rate changes, or because of the issuance of ARB or Nielsen TV market reports which resulted in rate changes by the station. At what rate is the candidate charged for use of the station?

A. If the change in rates has resulted in a lowest unit charge which is greater than that provided in the contract, the candidate is entitled to the charge specified in the contract. If the rate change of the station has resulted in a lowest unit charge which is less than that provided in the contract, the candidate is entitled to be charged at the lesser rate.

13. Q. On or after April 7, 1972, a candidate contracts with a station for use of its facilities during a period 60 days prior to a general election. The contract specifies no set rate to be charged, but instead, provides that the rate to be charged will not exceed the lowest unit charge being made on the date(s) contracted for. May such contracts be entered into by stations?

A. Yes. There is nothing in the new law concerning the type of contract a station may enter into with a candidate. (However, a contract providing that regardless of the lowest unit charge being made on the date of use by the candidate the candidate must pay a higher rate specified in the contract would be contrary to the public policy established by the new law.) Without additional language in such a contract, however, it might be impossible to satisfy the certification requirement of Q. and A. VII.1.(1), below.

14. Q. Does the "lowest unit charge" provision of section 315(b) (1) apply to political broadcasts by groups, organizations or persons other than candidates?

A. No. The provision applies only to broadcasts by candidates for public office. The general guideline to be followed is that the "uses" of broadcast stations for which the "lowest unit charge" provision applies are the "uses" which would entitle an opposing candidate to "equal opportunities" under the provisions of section 315(a), i.e., uses in which the candidate personally participates through use of his voice or image, live or taped, or through film or picture. (See "III. B. What constitutes a 'use' of broadcast facilities en-

titling opposing candidates to 'equal opportunities'?" in the 1970 primer.) Section 104(a) (6) of the Campaign Communications Reform Act provides that amounts spent for the use of communications media by or on behalf of a candidate are attributable to the candidate's spending limit. This means that some broadcast time bought to further the candidacy of a person may be on his behalf and will count against his spending limit, but will not be entitled to the "lowest unit charge" if it does not involve a "use" by the candidate. (See Q. and A. VIII.2. of the 1970 primer.)

15. Q. Does the "lowest unit charge" provision of section 315(b) (1) apply to both time charges and other charges by a station in connection with political broadcasts?

A. No. The provision applies only to charges for purchase of time. It does not cover additional charges made by a station for other services, which may be termed production oriented, such as charges for use of a television studio, audio- or video-taping, or line charges and remote technical crew charges when the broadcast is to be picked up outside the station. Moreover, the provision does not apply to additional charges that might be incurred if a candidate sought to purchase full sponsorship of an existing program for which there is an established program charge in addition to a time charge.

16. Q. Customarily, stations allow advertising agency commissions to be taken out of the charges made for time. If a candidate purchases time from a station through an agency, may the station include the agency commission in the lowest unit charge it makes to the candidate?

A. Yes. However, if a candidate purchases time directly from a station without the use of an agency, the lowest unit charge must exclude the amount usually paid for agency commission. For example, if a 1-minute spot announcement costs \$100 and an agency is allowed \$15, a candidate placing a spot through an agency must pay \$100. But if a candidate places the spot directly, without use of an agency, he pays \$85. In this connection, however, attention is invited to Q. and A. VI.13. above which states that production costs are not included in the lowest unit charge. Hence a candidate purchasing time directly, without the use of an agency, must furnish his advertisement or other program matter to the station, unless it is the policy of the station to prepare the material for commercial advertisers in such situations. See Q. and A. VIII. 12. and 20. in the 1970 primer.

17. Q. May a station with both "national" and "local" rates charge a candidate falling within the purview of section 315(b) (1) its lowest rate charge based on its "national" rates?

A. No. The calculation of the lowest unit charge must be based on its "local" rates (if they are lower than its "national" rates) regardless of whether a candidate is running for municipal, county, State, or national office. ("National" and "local" are not viewed as different "classes" of service under the

provisions of section 315(b)(1).) For example, if a candidate were running for the office of United States Senator and fell within the purview of section 315(b)(1), and if a station on which he purchased time covered all or most of the State in which he was running, calculation of the lowest unit charge would have to be based on the station's "local" rather than its "national" rates. This guideline overrules Q. and A. VIII. 4. and 14. in the 1970 primer insofar as candidates falling under the provisions of section 315(b)(1) are concerned. They are not overruled, however, as to candidates falling under the provisions of section 315(b)(2). See also Q. and A. VIII.3. in the 1970 primer.

18. Q. In computing the lowest unit charge under the provisions of section 315(b)(1), is the calculation based on the rate card of the station or on the rates actually charged by the station if they differ from those on the rate card?

A. The calculation is based on whatever will give the lowest unit rate for the same class and amount of time during the same period of the day. If use of the actual charges gives the lowest unit rate, actual charges are used in determining rates for candidates. If use of the rate card gives the lowest unit rate, the rate card is the basis used. Example of actual charges forming the basis for lowest unit charge: A licensee is "flexible" and uses his rate card as a point of departure for negotiations which always results in rates less than those shown on the card. Example of rate card forming the basis for lowest unit charge: A rate card shows a "package" or "plan" for fixed-position, one-minute spots in drive time which yields the lowest unit charge on the card for such spots (e.g., 10,000 such spots over a period of a year for a very low rate). The "package" or "plan" on the rate card also yields the lowest unit charge as compared with actual sales that may have been made for such spots at rates less than card rates. However, the "package" or "plan" has not been purchased by anyone for use during the 45- or 60-day period. In such a case, the rate card is used as the basis for calculation of the lowest unit rate for such spots because although it was never taken advantage of by a purchaser of time, the very low unit rate of the "package" or "plan" was being held out to the public.

19. Q. A person is a legally qualified candidate for nomination for the presidency, as discussed in Q. and A. V.1. above. He is running in the primary election of a State in the eastern part of the United States. During the period of 45 days before that primary election he wishes to purchase time on stations in that State and on stations in each of three western States. The situation with regard to each of the western States is as follows: (1) in State A, a presidential primary election has already been held in the State; (2) in State B, the delegates to the national nominating convention have already been selected by a State convention; (3) in State C, a presidential primary election is yet to be

held in the State, the person is running in that primary, but that primary will occur more than 45 days after the proposed use of the stations in State C. On what stations is the candidate entitled to the lowest unit charge?

A. He is entitled to the lowest unit charge only on the stations in the eastern State where he is running in the primary election. In the western States he would be entitled to rates on a "comparable" basis under the provisions of section 315(b)(2). The Commission is of the view that the intent of the lowest unit rate provision is that it is to apply only in situations where an election is being held in the service area of the station on which time is being purchased. If the person in this case subsequently receives the nomination of his party at its national convention, then under the provisions of section 315(b)(1) he would be entitled to the lowest unit charge in stations in all of the 50 States during the 60-day period preceding the presidential election.

20. Q. By statute a State provides that broadcast stations may carry legal notices at rates fixed by the statute. This rate is quite low so that for a particular broadcast station in that State the lowest unit charge for such notices for the same class and amount of time for the same period is less than the lowest unit charge based on "normal" rates. Must the lowest unit charge for candidates be calculated on the basis of the statutory rate for legal notices?

A. No. Since the rates for legal notices are set by statute rather than by the station, they are not used for calculation of the lowest unit charge for candidates.

21. Q. Are trade outs or barter transactions involving commercial advertisers to be used in computing the lowest unit charge?

A. No. Although stations engage in trade outs and barter in dealing with advertisers, only transactions involving sale of time for monetary consideration are to be used as the basis for calculating the lowest unit charge which must not be exceeded when a candidate wishes to purchase time. (This does not affect the Commission's policy with respect to reporting trade out and barter transactions on the Annual Financial Report (FCC Form 324). See Public Notice, FCC 72-139, February 17, 1972.)

22. Q. Are stations permitted to charge less than the lowest unit charge during the 45- or 60-day period before an election?

A. Yes. To make the preceding questions and answers concerning the matter of "lowest unit charge" less cumbersome, they have sometimes been couched in terms that might have conveyed the impression that stations must charge the lowest unit charge to candidates. It is stressed here that section 315(b)(1) provides that charges made by stations shall not exceed the lowest unit charge for the same class and amount of time for the same period. Stations are at liberty to charge less than the lowest unit charge. However, if they do, they must give the same low unit rate to other candidates for all offices purchasing the same class,

amount, and period of time on the station.

23. Q. Where a cable television operator does not have an advertising rate schedule, how should he determine the proper rate for a political message, in terms of "lowest unit charge" and "comparable use" rate concepts?

A. Since it is likely that most cable operators have had little experience in offering cablecasts on their systems, and even less in charging for use of cablecasting facilities, it will be necessary for operators without existing rate schedules to arrive at some reasonable rate structure. Section 73.251(a)(11)(iii) of the rules requires cable systems to establish appropriate rate schedules for use of their leased access channels; we expect that such rates will not have the effect of discouraging political use of such channels.

24. Q. Do the "lowest unit charge" and "comparable use" rate concepts prevent a cable television operator from establishing different rate structures for origination and access cablecasting channels?

A. No. The Commission considers origination and access cablecasting channels to be very different and non-comparable vehicles for expression on a cable system. It is for this reason, for example, that the Commission requires "equal time" and "fairness" obligations arising on an origination cablecasting channel to be satisfied on such a channel, and not on an access channel. See paragraph 145, Cable Television Report and Order, 37 F.R. 3252 (1972). Thus, a cable operator need not have the same rate structure for both origination and access channels.

25. Q. What is the meaning of "charge made for comparable use" in section 315(b)(2)?

A. This term is identical with that in section 315(b) prior to its amendment by the Campaign Communications Reform Act, and is construed in the same manner. The section entitled "VIII. What rates may be charged candidates for programs under section 315?" in the 1970 primer contains Commission rulings on this statutory term and on paragraph (c)[b] of the Commission rules governing political broadcasts and cablecasts which implemented the old section 315(b). These rulings are still valid.

VII—SECTION 315—CERTIFICATION

VII. 1. Q. What procedure is recommended by the Commission with regard to the certification that stations must obtain pursuant to sections 315(c) and 315(d).

A. The Commission recommends the following procedure which is analogous to that which will be established by regulations of the Comptroller General for certifications required by section 104(b) of the Campaign Communications Reform Act in connection with uses by candidates of newspapers, magazines, or outdoor advertising facilities:

(1) The certification should contain the call sign and community of license of the station (or, in the case of a cable television system, the name of the system, each community served, and State);

name of candidate; his political affiliation; elective office sought; date of primary or other election in connection with which time is being purchased; dates of proposed use or uses of station; duration of each broadcast and time at which each broadcast is to be made on each date; the rate to be charged and the total charges for which payment by the candidate is certified not to violate the candidate's spending limitation; signature of the candidate or of the person specifically authorized by the candidate in writing to do so; and date of signature. In addition to the foregoing, the certification should state that payment for the use of the time purchased, including any agent's commission allowed the agent by the station, will not violate the candidate's permissible limit of campaign spending under the provisions of section 104(a) of the Federal Election Campaign Act of 1971 (Public Law 92-225) as determined by the Comptroller General of the United States for the race involved. (For State races under section 315(d), appropriate language concerning spending limits imposed by the State law should be used.)

(2) The original certification must be given to the person making the charge before the order or agreement for the particular use is accepted. One copy of the certification should be retained by the candidate or the authorized person. If prior to the date(s) of use there is a change in the amount of charge, an amended certification must be given to the station.

(3) Each authorization by a candidate to another person or persons to make certifications on behalf of the candidate shall state the name and address of the authorized individual, the name of the candidate, the election involved, and any restrictions or limitations imposed, and it should be signed and dated by the candidate. The authorized individual may retain the original but a copy of the authorization must be given to the person making the charge.

(4) Whenever a single use of a station is by or on behalf of two or more candidates for elective office, the amount attributable to the expenditure of each candidate is the amount agreed upon by the candidates in advance of the use and shown on the certification. In such situations, a joint certification, or individual certifications showing the allocation to each candidate should be furnished by joint users.

(5) Certifications should be obtained for each individual use or series of uses of a station for which a candidate contracts. (E.g., if one contract is for 100 spots, only one certification is necessary.)

(6) The certification need not be in any special form. It may, for example, be incorporated into a standard contract or start order.

(7) Certifications must, pursuant to paragraph (d) [c] of the Commission's rules, be placed in the station file which is available for public inspection, and retained for a period of 2 years. If the certification is made by a duly authorized person as mentioned in (3) above, the

copy of that person's authorization given to the person making the charge must be attached to the certification and retained with it in the file for the 2-year period.

(8) Attention of certifying parties is invited to the fact that the Comptroller General of the United States will, in the near future, promulgate regulations governing communications media spending limitations for Federal elective office as required by the Campaign Communications Reform Act. These regulations will be published in the FEDERAL REGISTER and issued in a new title 11 ("Federal Elections") of the Code of Federal Regulations. Candidates should, of course, familiarize themselves with the contents of those regulations when issued. However, as an aid to stations and candidates, and with the caveat that this information is subject to modification by the aforementioned regulations, the following represents the substance of a pertinent portion of what is expected to appear in the regulations:

An expenditure for use of a station is deemed to take place on the date or dates when the station is actually used, regardless of when payment therefor is made and regardless of the date of any contract or promise. Such expenditure is charged against the amount of the expenditure limitation applicable to the election in connection with which the station is actually used, regardless of when payment therefor is made and regardless of the date of any contract or promise. An expenditure for the use of a station, when such use occurs on or after the effective date of the Campaign Communications Reform Act (April 7, 1972), is charged against the expenditure limitation applicable to the election in which the station is used, regardless of whether or not the use is paid for or contracted for prior to the effective date of the Act. However, the Act does not apply when such use occurs entirely before the effective date of the Act, regardless of whether or not the use is paid for on or after the effective date.

2. Q. Under the provisions of sections 315(c) and 315(d), if a station gives free time for use by or on behalf of a candidate must it obtain a certification from the candidate or a properly authorized person?

A. No. The sections only require the station licensee to obtain a certification if a charge is being made for the broadcast time, for if time is given free, use of a station by or on behalf of a candidate under those circumstances cannot bring the candidate into violation of the spending limitation.

3. Q. If a candidate prior to April 7, 1972, has contracted for use of a station both prior to April 7, 1972, and after that date, must the station obtain the certification required under section 315 (c) or (d) for the broadcasts which occur after April 7, 1972?

A. Yes. A certification must be obtained in all cases where a station is making a charge for use of the station by or on behalf of a legally qualified candidate on and after April 7, 1972. No certification for uses of a station prior to April 7, 1972, is necessary.

VIII—SECTION 312—REASONABLE ACCESS

VIII. 1. Q. To what candidates do the provisions of section 312(a) (7) apply?

A. They only apply to legally qualified candidates for Federal elective office (as such offices are defined in section 102 (3) and (4) of the Campaign Communications Reform Act). As to the right to access by candidates for other than Federal elective office, a licensee must govern its conduct by established interpretations of section 315 of the Communications Act prior to amendments. One such interpretation of section 315 is the Commission's historic policy regarding sale of time to candidates for office: The licensee in its own good-faith judgment in serving the public interest may determine which political races are of greatest interest and significance to its service area, and therefore may refuse to sell time to candidates for less important offices, provided it treats all candidates for such offices equally.

2. Q. Who is a "legally qualified candidate" for Federal elective office for purposes of section 312(a) (7)?

A. A "legally qualified candidate" for Federal elective office for the purpose of this section is the same as that spelled out in Q. and A. V.1. above, i.e., for purposes of reasonable access and permitting purchase of reasonable amounts of time the definition is the same as for section 315(a) concerning "equal opportunities."

3. Q. How is a licensee to comply with the requirement of section 312(a) (7) that he give reasonable access to his station to, or permit the purchase of reasonable amounts of time by, candidates for Federal elective office?

A. Each licensee, under the provisions of sections 307 and 309 of the Communications Act, is required to serve the public interest, convenience, or necessity. In its Report and Statement of Policy Re: Commission En Banc Programming Inquiry (1960), the Commission stated that political broadcasts constitute one of the major elements in meeting that standard. (See *Farmers Educational and Cooperative Union of America, North Dakota Division v. WDAY, Inc.*, 360 U.S. 525 (1959), and *Red Lion Broadcasting Co., Inc. v. FCC*, 395 U.S. 367, 393-94 (1969).) The foregoing broad standard has been applied over the years to the overall programming of licensees. New section 312(a) (7) adds to that broad standard specific language concerning reasonable access.

Congress clearly did not intend, to take the extreme case, that during the closing days of a campaign stations should be required to accommodate requests for political time to the exclusion of all or most other types of programming or advertising. Important as an informed electorate is in our society, there are other elements in the public interest standard, and the public is entitled to other kinds of programming than political. It was not intended that all or most time be preempted for political broadcasts. The foregoing appears to be the only definite statement that may be made about the new section, since no all-embracing standard can be set. The test of whether a licensee has met the requirement of the new section is one of reasonableness. The Commission will not substitute its judgment for that of the licensee, but, rather, it will determine in

any case that may arise whether the licensee can be said to have acted reasonably and in good faith in fulfilling his obligations under this section.

We are aware of the fact that a myriad of situations can arise that will present difficult problems. One conceivable method of trying to act reasonably and in good faith might be for licensees, prior to an election campaign for Federal offices, to meet with candidates in an effort to work out the problem of reasonable access for them on their stations. Such conferences might cover, among other things, the subjects of the amount of time that the station proposes to sell or give candidates, the amount and types of its other programming, the 7-day rule, and the amount of advertising it proposes to sell to commercial advertisers.

4. Q. Do the provisions of section 312 (a) (7) apply to persons or groups requesting access to or purchase of time on a station for themselves as spokesmen on behalf of a candidate?

A. No. The section applies only to requests for "use" of a station by a candidate. The standard of what constitutes a "use" of a station for purposes of administering section 312(a) (7) is the same as the standard concerning "equal opportunities" under section 315(a). That standard is elaborated in sections III. A. and B. of the 1970 primer and subsequent rulings. (See also Q. and A. VI.14. above.) With regard to spokesmen for candidates, a licensee must govern its conduct by the "public interest, convenience, or necessity" standard of sections 307 and 309 of the Communications Act discussed in Q. and A. VIII.3. above. See also Letter to Nicholas Zapple, 23 F.C.C. 2d 707 (1970).

5. Q. Does the "reasonable access" provision of section 312(7) require commercial stations to give free time to legally qualified candidates for Federal elective office?

A. No, but the licensee cannot refuse to give free time and also to permit the purchase of reasonable amounts of time. If the purchase of reasonable amounts of time is not permitted, then the station is required to give reasonable amounts of free time.

6. Q. If a commercial station gives reasonable amounts of free time to candidates for Federal elective office, must it also permit purchase of reasonable amounts of time?

A. No. A commercial station is required either to provide reasonable amounts of free time or permit purchase of reasonable amounts of time. It is not required to do both.

7. Q. If candidate A has spent the maximum amount of funds permitted him under the limitation set by section 104(a) (1), (2), or (3) of the Campaign Communications Reform Act and requests "equal opportunity" under the provisions of section 315(a) to respond

to a broadcast by candidate B, paid for by candidate B, which occurred after candidate A had reached his spending limit, must the station provide free time to candidate A?

A. No. Candidate A cannot furnish the necessary certification that purchase of time on the station would not result in a violation of the spending limitation.

8. Q. Some stations have in the past had the policy of not selling short political spot announcements (e.g., 10 seconds, 1 minute) on the ground that they did not contribute to an informed electorate. In light of the enactment of section 312(a) (7), may stations have such policies, or must they sell reasonable numbers of short spots to legally qualified candidates for Federal office if requested?

A. We have, prior to the enactment of section 312(a) (7), when station were (under the provisions of section 315) not required to allow use of their facilities by particular candidates for public office, ruled that licensees may have such policies. In so ruling, we have cautioned that licensees have the public interest consideration of making their facilities available to candidates, but have left to the good-faith judgment of the licensee the determination of how the facilities were to be used to serve the public interest. As complaints arose, we looked to the reasonableness of that judgment in a particular fact pattern. (31 FCC 2d 782 (1971).) Section 312(a) (7) now imposes on the overall obligation to operate in the public interest the additional specific requirement that reasonable access and purchase of reasonable amounts of time be afforded candidates for Federal office. We shall, under this new section, apply the same test of reasonableness of the judgment of the licensee. Thus whether a refusal to sell short political spots would or would not violate the provisions of the new section would depend on the circumstances in which the refusal occurred. The same would apply to similar situations, e.g., in cases where a station has a policy of not placing political spots on news programs.

9. Q. Does section 312(a) (7) apply to noncommercial educational stations, and other nonprofit stations, as well as to commercial stations?

A. Yes. There are no provisions in the Campaign Communications Reform Act exempting such stations, nor is there anything in the legislative history of the Act that would indicate that such an exemption was intended. Both types of stations would be required to give reasonable access to legally qualified candidates for Federal elective office.

10. Q. May noncommercial educational stations and nonprofit stations charge for broadcast time by or on behalf of legally qualified candidates for Federal elective office?

A. Under the provisions of the Commission rules, noncommercial educational stations operating on channels reserved for noncommercial educational use are not permitted to levy charges for time—for political broadcasts or otherwise. Some such stations presently are providing political programming without charge, and it appears that as a practical matter the new provision will not greatly alter their practices. On the other hand, those stations that do not engage in such programming will be required under the new law to provide reasonable access to candidates without charge. Noncommercial educational stations that are operating on unreserved channels, and nonprofit stations that are not educational, e.g., those offering religious broadcasting, may charge for political broadcast time (if their charters or articles of incorporation permit them to make time charges) although it is their policy normally not to charge for any time. If they do charge, notice must be given to the Commission of this change in operation. The lowest unit charge provisions of section 315(b) cannot apply to such stations since they have no rates on which to base such a charge. However, any charges made must be reasonable when viewed in the light of charges made by commercial stations in the same broadcast service licensed to serve the same community. If the charges made by nonprofit stations are unduly high, it is conceivable that they might be construed as an attempt to circumvent the reasonable access provision of section 312 (a) (7). Noncommercial educational stations and nonprofit stations, whether giving free time for political broadcasts or charging for such time, may make necessary charges for production-oriented services, and for other things of the type mentioned in Q. and A. VI.15. above.

11. Q. Does the "reasonable access" provision of section 312(a) (7) require a cable television system that lacks cablecasting facilities to provide such facilities upon receipt of a request for access to or purchase of time on a system?

A. No. A cable system that lacks cablecasting facilities, other than for automated services, and is not required by the Commission's Rules to have them, need not provide such facilities upon receipt of a request for access to or purchase of time on the system.

Adopted: March 15, 1972.

FEDERAL COMMUNICATIONS
COMMISSION,⁷

[SEAL] BEN F. WAPLE,

Secretary.

[FR Doc.72-4289 Filed 3-20-72;8:48 am]

⁷ Commissioners Johnson and H. Rex Lee not participating.

FEDERAL COMMUNICATIONS COMMISSION

[FCC 70-871]

USE OF BROADCAST FACILITIES BY CANDIDATES FOR PUBLIC OFFICE

APRIL 27, 1966.

This Public Notice is a compilation of the Commission's interpretive rulings under section 315 of the Communications Act of 1934, as amended, and the Commission's rules implementing that section of the Act and brings up-to-date and supersedes all prior Public Notices issued by the Commission entitled "Use of Broadcast Facilities by Candidates for Public Office." The Commission has reviewed its Public Notice of April 27, 1966, 3 F.C.C. 2d 463 2d (1966), which contained section 315, as amended, the Commission's rules, additional rulings, and recommended complaint procedures. Significant rulings made subsequent to the 1966 Public Notice have been added, and editorial and other revisions have been made with respect to some of the interpretations previously published. Where appropriate, cumulative rulings have been cited.

In preparing this revision of the section 315 Primer, an attempt has been made not only to give a concise statement of prevailing law and policy in this area but to provide the user with the citations necessary to reconstruct the evolution and/or modification of particular 315 questions. For this reason, prior interpretations of particular questions have been cross-referenced and appear in the relevant sections. We stress that we have included these cross-referenced cases as a research aid rather than as an implication that action should be taken in reliance thereon. Included herein are the determinations of the Commission with respect to problems which have been presented to it and which appear likely¹ to be involved in future campaigns. While the information contained herein does not purport to be a discussion of every problem that may arise in the political broadcast field, experience has shown that these documents have been of assistance to candidates and broadcasters in understanding their rights and obligations under section 315.

In its first report and order in Docket No. 18397 (20 F.C.C. 2d 201 (1969)) the Commission adopted rules, essentially the same as those applicable to broadcast licensees, making the provisions of section 315 applicable to programs originated on Community Antenna Television (CATV) Systems (§ 74.1101 of the Commission's rules). All rulings, interpreta-

¹ A few of the questions taken up within have been presented to the Commission informally—that is, through telephone conversations or conferences with station representatives. They are set out in this Public Notice because of the likelihood of their recurrence and the fact that no extended Commission discussion is necessary to dispose of them; the answer in each case is clear from the language of section 315.

tions and complaint procedures contained herein are thus fully applicable to political programs originated by CATV Systems, and references to "stations" and "licensees" throughout this primer include "CATV systems" and "CATV operators."

The purpose of this notice is to apprise licensees, candidates, and other interested persons of their respective responsibilities and rights under section 315, and the Commission's rules, when situations similar to those discussed herein are encountered. In this way, resort to the Commission may be obviated in many instances and time—which is of great importance in political campaigns—will be saved. We do not mean to preclude inquiry to the Commission when there is a genuine doubt as to licensee obligations and responsibilities to the public interest under section 315. Procedures for filing complaints are set out below. But it is believed that the following document will, in many instances, remove the need for inquiries, and that licensees will be able to take the necessary prompt action in accordance with the interpretations and positions set forth below.

This discussion relates solely to obligations of broadcast licensees towards candidates for public office under section 315 of the Act. It is not intended to include the question of the treatment by broadcast licensees of political or other controversial programs not governed by the "equal opportunities" provisions of that section. As to the responsibilities of broadcast licensees with respect to controversial issues of public importance included in political broadcasts, licensees are referred to the Commission's "fairness doctrine," and the current Public Notice entitled "Applicability of the Fairness Doctrine in the Handling of Controversial Issues of Public Importance." (40 F.C.C. 598 (1964).)

We have continued the question-and-answer format as an appropriate means of delineating the section 315 problems. Wherever possible, reference to Commission's decisions or rulings are made so that the researcher may, if he desires, review the complete text of the Commission's ruling. (See also the Commission's rules relating to "personal attacks" and political editorializing, §§ 73.123 (AM), 73.300 (FM), 73.598 (noncommercial educational FM), 73.679 (TV) and 74.1115 (CATV), 47 CFR, §§ 73.123, 73.300, 73.598, 73.679, and 74.1115 (1970). Citations are to the F.C.C. Reports (F.C.C.) and F.C.C. Reports, Second Series (F.C.C. 2d).)

This Public Notice summarizes significant rulings issued by the Commission including those promulgated since the date of the 1966 Public Notice. In the interval, the Commission has reemphasized the importance of licensee presentation of political broadcasting.

In short, the presentation of political broadcasting, while only one of the many elements of service to the public * * *

* Volume 40 of the F.C.C. Reports is currently being printed.

is an important facet, deserving the licensee's closest attention, because of the contribution broadcasting can thus make to an informed electorate—in turn so vital to the proper functioning of our Republic. In re Licensee Responsibility as to Political Broadcasts, 15 F.C.C. 2d 94 (1968).

The Supreme Court had previously stated:

Instead the thrust of section 315 is to facilitate political debate over radio and television. Recognizing this, the Communications Commission considers the carrying of political broadcasts a public service criterion to be considered both in licensee renewal proceeding, and in comparative contests for a radio or television construction permit [footnote omitted]. Certainly Congress knew the obvious—that if a licensee could protect himself from liability in no other way but by refusing to broadcast candidates' speeches, the necessary effect would be to hamper the congressional plan to develop broadcasting as a political outlet, rather than to foster it. [footnote omitted] Farmers Educational and Cooperative Union of America, North Dakota Division v. WDAY, Inc., 360 U.S. 525 (1959). (See Red Lion Broadcasting Co., Inc. v. Federal Communications Commission, 395 U.S. 367, 393-94 (1969).)

Recommended Complaint Procedures

Complaints relating to 315 matters are given priority consideration by the Commission. Compliance with the following recommended procedures will further greatly assist in the orderly and expeditious disposition of such complaints. However, we do not mean, of course, to preclude in any way inquiry to the Commission when there is a genuine question as to licensee rights and obligations under section 315. We set out these recommended procedures in order to expedite and permit timely consideration of complaints in this important area. Failure to follow these procedures may result in unnecessary delays in resolution of section 315 complaints.

First, barring unusual circumstances, a complaint should not be made to the Commission until the licensee has denied the candidate's request for time after opportunity for passing on the essential claims raised by the candidate. Further, it has been the Commission's consistent policy to encourage negotiations between licensees and candidates seeking broadcast time or having questions under section 315, looking toward a disposition of the request or questions in a manner which is mutually agreeable to all parties. A complaint relating to a section 315 matter thus should be filed with the Commission after an effort has been made in good faith by the parties concerned to resolve the questions at issue. In this way, resort to the Commission might be obviated in many instances and time—which is of great importance in political campaigns—might be saved.

Where a complaint is filed with the Commission, (i) the complainant should simultaneously send a copy to the licensee, (ii) the licensee should respond,

as promptly as possible, and not await Commission inquiry regarding the complaint, and (iii) the complainant and licensee should furnish each other with copies of all correspondence sent to the Commission.

A complaint filed with the Commission should be in written form and should contain: (i) The name and address of the complainant, (ii) the call letters (but in the case of a CATV system, the name of the person, company or corporation operating the system) and location (city and State) of the station against whom the complaint is made, and (iii) a detailed statement of the factual basis of the complaint which shall include, but not necessarily be limited to: the public office involved, the date and nature of the election to be held, whether the complainant and his opponent(s) are legally qualified candidates for public office, the date(s) of prior appearances by opponents if any, the time of request for equal opportunities submitted to the licensee, and the licensee's stated reasons for refusing to satisfy the complaint.

If at any time the licensee satisfies the complaint, the licensee should so notify the Commission, setting forth when and how the complaint has been satisfied and furnish a copy of such notification to complainant.

I. The Statute

Section 315 of the Communications Act of 1934, as amended, provides as follows:

SEC. 315. (a) If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting stations: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidate on any—

- (1) Bona fide newscast,
- (2) Bona fide news interview,
- (3) Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or
- (4) On-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto), shall not be deemed to be use of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

(b) The charges made for the use of any broadcasting station for any of the purposes set forth in this section shall not exceed the charges made for comparable use of such station for other purposes.

(c) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

(48 Stat. 1088 (1934), 66 Stat. 717 (1952), 73 Stat. 557 (1959), 47 U.S.C. § 315 (1964))

II. The Commission's Rules and Regulations With Respect to Political Broadcasts

The Commission's rules and regulations with respect to political broadcasts coming within section 315 of the Communications Act are set forth in §§ 73.120 (AM), 73.290 (FM), 73.590 (noncommercial Educational FM), and 73.657 (TV), respectively. These provisions are identical (except for elimination of any discussion of charges in § 73.590 relating to noncommercial educational FM stations) and read as follows:

Broadcasts by candidates for public office—

(a) *Definitions*: A "legally qualified candidate" means any person who has publicly announced that he is a candidate for nomination by a convention of a political party or for nomination or election in a primary, special, or general election, municipal, county, State or national, and who meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate, so that he may be voted for by the electorate directly or by means of delegates or electors, and who:

- (1) Has qualified for a place on the ballot or
- (2) Is eligible under the applicable law to be voted for by sticker, by writing in his name on the ballot, or other method, and (i) has been duly nominated by a political party which is commonly known and regarded as such, or (ii) makes a substantial showing that he is a bona fide candidate for nomination or office, as the case may be.

(b) *General requirements*. No station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all such other candidates for that office to use such facilities: *Provided*, That such licensee shall have no power of censorship over the material broadcast by any such candidate.

(c) *Rates and practices*. (1) The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means direct or indirect. A candidate shall, in each case, be charged no more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. All discount privileges otherwise offered by a station to commercial advertisers shall be available upon equal terms to all candidates for public office.

(2) In making time available to candidates for public office no licensee shall make any discrimination between candidates in charges, practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

(d) *Records; inspection*. Every licensee shall keep and permit public inspection of a complete record of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if request is

granted. Such records shall be retained for a period of 2 years.

Note: See § 1.526 of this chapter.

(e) *Time of request*. A request for equal opportunities must be submitted to the licensee within 1 week of the day on which the first prior use, giving rise to the right of equal opportunities, occurred: *Provided, however*, That where the person was not a candidate at the time of such first prior use, he shall submit his request within 1 week of the first subsequent use after he has become a legally qualified candidate for the office in question.³

(f) *Burden of proof*. A candidate requesting such equal opportunities of the licensee, or complaining of noncompliance to the Commission shall have the burden of proving that he and his opponent are legally qualified candidates for the same public office.

(47 CFR §§ 73.120, 73.290, 73.590, 73.657 (1970).)

In addition, the attention of the licensees is directed to the following provisions of §§ 73.119, 73.289, and 73.654, relating to sponsorship identification which provide in pertinent part:

(a) When a * * * broadcast station transmits any matter for which money, services, or other valuable consideration is either directly or indirectly paid or promised to, or charged or received by, such station, the station shall broadcast an announcement that such matter is sponsored, paid for, or furnished, either in whole or in part, and by whom or on whose behalf such consideration was supplied: *Provided, however*, That "service or other valuable consideration" shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, a broadcast unless it is so furnished in consideration for an identification in a broadcast of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property on the broadcast.

(b) The licensee of each television broadcast station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any program matter for broadcast, information to enable such licensee to make the announcement required by this section.

(c) In any case where a report (concerning the providing or accepting of valuable consideration by any person for inclusion of any matter in a program intended for broadcasting) has been made to a television broadcast station, as required by section 508 of the Communications Act of 1934, as amended, of circumstances which would have required an announcement under this section had the consideration been received by such television broadcast station, an appropriate announcement shall be made by such station.

(d) In the case of any political program or any program involving the discussion of public controversial issues for which any records, transcriptions, talent, scripts, or other material or services of any kind are furnished, either directly or indirectly, to a station as an inducement to the broadcasting of such program, an announcement shall be made both at the beginning and

³ Paragraph (e) was amended May 6, 1970; 35 F.R. 7118 (1970). Analogous political broadcasting rules have been promulgated with respect to CATV systems, 47 CFR § 74.1113 (1970); 34 F.R. 17651, 17660 (1969); 20 F.C.C. 2d 201, 223 (1969); See section IX, *infra*.

conclusion of such program on which such material or services are used that such records, transcriptions, talent, scripts, or other material or services have been furnished to such station in connection with the broadcasting of such program: *Provided, however*, That only one such announcement need be made in the case of any such program of 5 minutes' duration or less, which announcement may be made either at the beginning or conclusion of the program.

(f) In the case of any program, other than a program advertising commercial products or services, which is sponsored, paid for, or furnished, either in whole or in part, or for which material or services referred to in paragraph (d) of this section are furnished, by a corporation, committee, association, or other unincorporated group, the announcement required by this section shall disclose the name of such corporation, committee, association, or other unincorporated group. In each such case the station shall require that a list of the chief executive officers or members of the executive committee or of the board of directors of the corporation, committee, association, or other unincorporated group shall be made available for public inspection at the studios or general offices of one of the standard broadcast stations carrying the program in each community in which the program is broadcast. Such lists shall be kept and made available for a period of 2 years.

(g) In the case of broadcast matter advertising commercial products or services, an announcement stating the sponsor's corporate or trade name, or the name of the sponsor's product, when it is clear that the mention of the name of the product constitutes a sponsorship identification, shall be deemed sufficient for the purposes of this section and only one such announcement need be made at any time during the course of the program.

(1) Commission interpretations in connection with the provisions of this section may be found in the Commission's Public Notice entitled "Applicability of Sponsorship Identification Rules" (FCC 63-409; 28 F.R. 4732, May 10, 1963) and such supplements thereto as are issued from time to time.

(47 CFR §§ 73.119, 73.289, 73.654 (1970).⁴

III. "Uses," in General

In general, any use of broadcast facilities by a legally qualified candidate for public office imposes an obligation on licensees to afford "equal opportunities" to all other such candidates for the same office.

Section 315 of the Act was amended by the Congress in 1959 to provide that appearances by legally qualified candidates on specified news-type programs are deemed not to be a "use" of broadcast facilities within the meaning of that section. In determining whether a particular program is within the scope of one of these specified news-type programs, the basic question is whether the program meets the standard of "bona fides." To establish whether such a program is in fact a "bona fide" program, the following considerations, among others, may be pertinent: (1) The for-

mat, nature and content of the programs; (2) whether the format, nature or content of the program has changed since its inception and, if so, in what respects; (3) who initiates the programs; (4) who produces and controls the program; (5) when the program was initiated; (6) is the program regularly scheduled; and (7) if the program is regularly scheduled, specify the time and day of the week when it is broadcast. Questions have also been presented by the appearances on news-type broadcast programs of station employees who are also legally qualified candidates. In such cases, in addition to the above, the following considerations, among others, may be pertinent to a determination of the applicability of section 315: (1) What is the dominant function of the employee at the station?; (2) what is the content of the program and who prepares the program?; and (3) to what extent is the employee personally identified on the program? In the rulings set forth below, wherein the Commission held that the "equal opportunities" provision was applicable, it should be assumed that the news-type exemptions contained in the 1959 amendments were not involved.

III.A. Types of Uses

III.A. 1. Q. Does section 315 apply to one speaking for or on behalf of the candidate, as contrasted with the candidate himself?

A. No. The section applies only to legally qualified candidates. Candidate A has no legal right under section 315 to demand time where B, not a candidate, has spoken against A or in behalf of another candidate. (*Felix v. Westinghouse Radio Stations*, 186 F. 2d 1 (3d Cir. 1950), cert. den. 341 U.S. 909 (1951). See letter to Mr. Lawrence M. C. Smith, 40 F.C.C. 549 (1963); see also letter to Mr. George F. Mahoney, 40 F.C.C. 336 (1962).)

2. Q. Does section 315 confer rights on a political party as such?

A. No. It applies in favor of legally qualified candidates for public office, and is not concerned with the rights of political parties, as such. (Letters to The National Laugh Party, 40 F.C.C. 289 (1957); Mr. Harry Dermer, 40 F.C.C. 407 (1964).)

3. Q. Does section 315 require stations to afford "equal opportunities" in the use of their facilities in support of or in opposition to a public question to be voted on in an election?

A. No. Section 315 has no application to the discussion of political issues, as such, but is concerned with the use of broadcast stations by legally qualified candidates for public office. In the 1959 amendment of section 315, relating to certain news-type programs, Congress stated specifically that its action was not to be construed " * * * as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this Act to operate in the public interest and to

afford reasonable opportunity for the discussion of conflicting views on issues of public importance." The Commission has considered this statement to be an affirmation of its "fairness doctrine", as enunciated in its Report on Editorializing by Broadcast Licensees, 13 F.C.C. 1246 (1946). (See *In re Greater New York Broadcasting Corp.*, 40 F.C.C. 235 (1946); *In re Arkansas AFL-CIO*, 18 F.C.C. 2d 497 (1969); *Dowie A. Crittenden*, 18 F.C.C. 2d 499 (1969); *Harry Lerner*, 15 F.C.C. 2d 75 (1968); see caveat in letter to Cumberland Publishing Co., 13 F.C.C. 2d 897 (1968); *Red Lion Broadcasting Co., Inc. v. Federal Communications Commission*, 395 U.S. 367, 393-94 (1969).)

III.B. What Constitutes a "Use" of Broadcast Facilities Entitling Opposing Candidates to "Equal Opportunities"?

III.B. 1. Q. If a legally qualified candidate secures air time but does not discuss matters directly related to his candidacy, is this a use of facilities under section 315?

A. Yes. Section 315 does not distinguish between the uses of broadcast time by a candidate, and the licensee is not authorized to pass on requests for time by opposing candidates on the basis of the licensee's evaluation of whether the original use was or was not in aid of a candidacy. (*In re Socialist Labor Party*, 40 F.C.C. 241 (1952); *In re Fordham University*, 40 F.C.C. 321 (1961), Q. and A. III.B.6., infra.)

2. Q. Must a broadcaster give equal time to a candidate whose opponent has broadcast in some other capacity than as a candidate?

A. Yes. For example, a weekly report of a Congressman to his constituents via radio or television is a broadcast by a legally qualified candidate for public office as soon as he becomes a candidate for reelection, and his opponent must be given "equal opportunities" for time on the air. Any "use" of a station by a candidate, in whatever capacity, entitles his opponent to "equal opportunities." (*In re Clinton D. McKinnon*, 40 F.C.C. 291 (1952); see Q. and A. III.C.1, for a joint Congressional Report infra; letter to Honorable Joseph S. Clark, 40 F.C.C. 325 (1962); and for a Judge's report see telegram to Television Co. of America, 40 F.C.C. 319 (1961); see also Q. and A. III.B.10, infra; but see Q. and A. III.C.4, infra; for more recent rulings see Q. and A.'s III.B. 11, 12, 13, and 15, infra.)

3. Q. If a candidate appears on a variety program for a very brief bow or statement, are his opponents entitled to "equal opportunities" on the basis of this brief appearance?

A. Yes. All appearances of a candidate, no matter how brief or perfunctory, are "uses" of a station's facilities within section 315. (See letters to KUGN, 40 F.C.C. 293 (1958); *Kenneth E. Spengler*, 40 F.C.C. 279 (1956).)

4. Q. If a candidate is accorded station time for a speech in connection with a ceremonial activity or other public service, is an opposing candidate entitled

⁴ Analogous rules are now applicable to CATV Systems, 47 CFR § 74.1119; 34 F.R. 17651, 17660 (1969); 20 FCC 2d 201, 225 (1969).

to equal utilization of the station's facilities?

A. Yes. Section 315 contains no exception with respect to broadcasts by legally qualified candidates carried "in the public interest" or as a "public service." It follows that the station's broadcasts of the candidate's speech was a "use" of the facilities of the station by a legally qualified candidate giving rise to an obligation by the station under section 315 to afford "equal opportunities" to other legally qualified candidates for the same office. (Letters to Columbia Broadcasting System, Inc., 40 F.C.C. 254 (1952); K.F.I., 40 F.C.C. 257 (1952).)

5. Q. The United Community Campaigns of America advised the Commission that dating back to the early thirties it had "kicked off" its United Fund and Community Chest Campaigns with a special message broadcast by the President of the United States each fall. For the past several years the broadcast has consisted of a 5 minute program filmed on video-tape in advance at the White House and later carried on the three television networks and the four radio networks. Would the candidate opposing the President be entitled to equal opportunities if the message were carried?

A. The Commission held that section 315 contains no exceptions with respect to broadcasts by legally qualified candidates carried "in the public interest" or as a "public service" and that a candidate's speech in connection with a ceremonial activity is a section 315 "use." It is immaterial whether or not the candidate uses the time to discuss matters related to his candidacy, and the fact that the appearance of the candidate is nonpolitical is not determinative of whether his appearance is a "use." Whether the presentation of the special message in connection with a particular newtype program would meet the criteria for exemption specified in the 1959 amendment is a question initially for the exercise of the good faith judgment of the broadcast licensee. (Letter to United Community Campaigns of America, 40 F.C.C. 390 (1964).)

6. Q. Where a candidate delivers a nonpolitical lecture on a program which is part of a regularly scheduled series of lectures broadcast by an educational FM station, is that station required to grant equal time to opposing candidate?

A. Yes. Unless the candidate's appearance comes within the category of broadcasts exempt from section 315's "equal opportunities" provision, equal time must be granted. The use to which the candidate puts this broadcast time is immaterial. (See Q. and A. III.B.1, supra; telegram to Fordham University, 40 F.C.C. 321 (1961).)

7. Q. Are acceptance speeches by successful candidates for nomination for the candidacy of a particular party for a given office, a use by a legally qualified candidate for election to that office?

A. Where the successful candidate for nomination becomes legally qualified as a candidate for election as a result of the nomination, his acceptance speech con-

stitutes a use. (Letter to Progressive Party, 40 F.C.C. 248 (1952).) However, after 1959, acceptance speeches in connection with political conventions are governed by section 315(a)(4). (For rulings after the 1959 Amendments see Lar Daly, 40 F.C.C. 316 (1960); Q. and A. III.C.22, infra and letter to DeBerry-Shaw Campaign Committee, 40 F.C.C. 394 (1964), Q. and A. III.C.23, infra.)

8. Q. Does section 315 apply to broadcasts by a legally qualified candidate where such broadcasts originate and are limited to a foreign station whose signals are received in the United States?

A. No. Section 315 applies only to stations licensed by the FCC and to CATV systems regulated by the FCC. (Letter to Mr. Gregory N. Pillion, 40 F.C.C. 267 (1955).)

9. Q. A candidate for the Democratic nomination for President appeared on a network variety show. A claimant for "equal opportunities" showed that his name had been on the ballots in the Democratic presidential primary elections in two states; that the network had shown him in a film on a program concerned with the various 1960 presidential candidates; and that he was continuing his efforts as a candidate for the Democratic nomination. Would the claimant be entitled to "equal opportunities"?

A. Yes, since the appearance of the first candidate was on a program which was not exempt from the "equal opportunities" requirement of section 315 and the claimant had shown that he was a "legally qualified" candidate for the nomination for the same office. (Lar Daly, 40 F.C.C. 314 (1960).)

10. Q. If a station owner, or a station advertiser, or a person regularly employed as a station announcer were to make appearances over a station after having qualified as a candidate for public office, would section 315 apply?

A. Yes. Such appearances of a candidate are a "use" under section 315. (Letters to KUGN, 40 F.C.C. 293 (1958); Robert Yeakel, 40 F.C.C. 282 (1957); Kenneth E. Spengler, 40 F.C.C. 279 (1956); to Georgia Association of Broadcasters, 40 F.C.C. 343 (1962); cf., Q.'s and A.'s III.B. 11, 12, 13, and 15, infra; letter to D. L. Grace, 40 F.C.C. 297 (1958); but compare KWTX Broadcasting Co., 40 F.C.C. 304 (1960), aff'd Brigham v. F.C.C., 276 F. 2d 828 (C.C.A.5, 1960) and Q. and A. III.C.4, infra.)

*11. Q. A television station employs an announcer who, "off camera" and unidentified, supplies the audio portion of required station identification announcements, public service announcements, and commercial announcements. The announcer is not authorized to make comments or statements concerning political matters, and he has no control over the format or content of any program material. In the event that this employee announced his candidacy for the city council, would his opponent be entitled to equal opportunities?

A. No. The employee's appearance for purposes of making commercial, non-commercial, and station identification announcements would not constitute a "use" where the announcer himself was neither shown nor identified in any way.

(Letters to WNEP-TV, 40 F.C.C. 431 (1965); Station WAMB, 17 F.C.C. 2d 176 (1969); Station WENR, 17 F.C.C. 2d 613 (1969); KYSN Broadcasting Co., 17 F.C.C. 2d 164 (1969).)

12. Q. The station employee mentioned in Q. and A. III.B.11, supra, also hosts a weekly dance party on which he is identified but during which he appears or is heard only a portion of the time. He has some discretion with respect to the program's content insofar as he conducts brief conversations with teenagers appearing on the program. In the event he becomes a candidate for the city council, would his opponent be entitled to "equal opportunities"?

A. Yes. The employee's appearance as host of the dance party program would entitle other candidates for the same office to "equal opportunities" for the amount of time he appeared on the program. The deletion of the announcer's identity would not exempt his appearances from the "equal opportunities" provision, since in the case of television it is the appearance itself which constitutes the "use" of the facilities without regard to the format of the program. If an appearance of this nature were made, other candidates would be entitled to free time since the announcer would not have paid for the time he appeared. (Letter to WNEP-TV, 40 F.C.C. 431 (1965).)

13. Q. An employee of a radio station who had been for a number of years the station's news director and is responsible for preparing the news material and presenting it on regularly scheduled news programs announced his candidacy for the school board. Prior to becoming a candidate the employee was identified on the news programs he announced, but he will not be identified during his candidacy. Would the appearance of the employee while he was a legally qualified candidate on the particular news-type programs constitute a "use" of the station entitling the employee's opponents to "equal opportunities"?

A. Yes. In cases where the newscaster is identified up to the date of his candidacy and prepares and broadcasts the news, including that of a local nature, the general line of rulings prior to the 1959 amendments to section 315 would be applicable and such appearances would constitute a "use" of the station's facilities. (Newscaster Candidacy, 40 F.C.C. 433 (1965); but compare letter to KWTX Broadcasting Co., 40 F.C.C. 304 (1960), aff'd Brigham v. F.C.C. 276 F. 2d 828 (C.C.A., 5, 1960) and Q. and A. III.C.4, infra.)

14. Q. When a station, as part of a newscast, uses film clips showing a legally qualified candidate participating as one of a group in official ceremonies and the newscaster, in commenting on the ceremonies, mentions the candidate and others by name and describes their participation, has there been a "use" under section 315?

A. No. Since the facts clearly showed that the candidate had in no way directly or indirectly initiated either filming or presentation of the event, and that the broadcast was nothing more than a routine newscast by the station in the

*An asterisk denotes a new question and answer.

exercise of its judgment as to newsworthy events. (Letter to Allen H. Blondy, Esq., 40 F.C.C. 284 (1957); but see the 1959 amendments to section 315 exempting news programs from the equal opportunities provisions. See rulings in III.C., *infra*.)

*15. Q. A radio station employee, who for the last 8 months had been the announcer on a Monday through Friday all-night music-news radio show where he announced the news, made station identification announcements and time checks and gave those commercials and public service announcements which were not on tape, became a candidate for public office. The announcer never stated his name on the air and he had not been identified over the air since he had begun this show. Prior to his appearances on the present show, he was a well known air personality who had been frequently identified over the air and the licensee stated that his voice was "no doubt known to many listeners." Would the employee's appearances constitute a "use" under section 315?

A. Yes. This determination depends upon whether or not, despite his name not being given over the air since he began his present show, the announcer remains "identified" to a substantial degree because of the particular circumstances. This is a matter for licensee's reasonable good faith judgment and in light of the statement by the licensee that the announcer's voice was undoubtedly known to many listeners, his appearances would be a section 315 use. (In re Station WBAX, 17 F.C.C. 2d 316 (1969).)

*16. Q. A political party purchased television time to distribute to individual candidates for such use as they deemed appropriate. Would each of these three situations be a "use" by a candidate under 315? The camera pans a group of candidates seated in the studio while a noncandidate reads a political spot; a noncandidate reads a political spot while a silent film of a candidate is shown; and a photograph of a candidate appears on the screen while a noncandidate reads a political spot.

A. In these circumstances, each of these three situations would constitute a "use" entitling opposing legally qualified candidates for the same public office to "equal opportunities." (In re Station KWWL-TV 23 F.C.C. 2d 758 (1966).)

*17. Q. A legally qualified candidate for a public office used on television a film of scenes taken at a college while he was talking with college students. None of the voices of the college students was actually heard because the political film was narrated by an off-screen announcer. None of the students was identified by name, and there were no close-ups of any students, but there were merely scenes of the entire group. Included in the film clips was a college student who later became a legally qualified candidate for another public office. If these film clips are shown by the first

candidate who was talking with the students to further his own campaign, are legally qualified opposing candidates of the "student" shown on these clips entitled to equal opportunities?

A. Yes. Since the student was identifiable on the film, his appearance would constitute a "use" giving all opposing legally qualified political candidates the right to "equal opportunities" (limited to the time the student candidate actually appeared). (In re Station KRTV, 23 F.C.C. 2d 778 (1966); cf. National Urban Coalition, 23 F.C.C. 2d 123 (1970); see letter to the Honorable Warren D. Magnuson, 23 F.C.C. 2d 775 (1967).)

*18. Q. The National Urban Coalition requested a declaratory ruling concerning the applicability of section 315 to a 118-second public service television announcement featuring a group of about 120 people, many of whom are leading personalities in the political, sports and entertainment fields, all singing as a group, the song "Let the Sunshine In." No one's name was mentioned nor were any voices separately identifiable. Subsequent to the filming of this announcement, one of the persons appearing therein became a legally qualified candidate for public office. In an edited version of this program which eliminated any close-up of this candidate, the candidate was nevertheless visible in two video shots: (1) For about 4.2 seconds in a long-range shot of 100 people, and (2) approximately 2.8 seconds in a medium-range shot of about 6 people in which only the lower half of his face is seen. If broadcast, would one or both of these two video shots constitute a section 315 "use" by the candidate?

A. No. In video shot number one, the duration of the shot was too fleeting and the camera range too distant for the candidate to be readily identified in the group of 100 persons. In video shot number two, the camera angle caught only a partial view of the candidate's face for a fleeting moment so that he was not readily identifiable. Based on the facts and since the candidate was not readily identifiable on the film, his appearances were not "uses" within the meaning of section 315(a) of the Communications Act. (National Urban Coalition, 23 F.C.C. 2d 123 (1970).)

III.C. What Constitutes an Appearance Exempt From the Equal Opportunities Provisions of Section 315?

III.C. 1. Q. Does an appearance on a program subject to the equal opportunities provision of section 315 such as a Congressman's Weekly Report, attain exempt status when the Weekly Report is broadcast as part of a program not subject to the equal opportunities provisions, such as a bona fide newscast?

A. No. A contrary view would be inconsistent with the legislative intent and recognition of such an exemption would in effect subordinate substance to form. (Letter to Honorable Clark W. Thompson, 40 F.C.C. 328 (1962).)

2. Q. Are appearances by an incumbent-candidate in film clips prepared and

supplied by him to the stations and broadcast as part of a station's regularly scheduled newscast, "uses" within the meaning of section 315?

A. Yes. Broadcast of such film clips containing appearances by a candidate constitute uses of the station's facilities. Such appearances do not attain exempt status when the film clips are broadcast as part of a program not subject to the equal opportunities provision, for the reasons set forth in Question and Answer III.C.1, above. (Letter to Honorable Clem Miller, 40 F.C.C. 353 (1962).)

3. Q. A sheriff who was a candidate for nomination for U.S. Representative in Congress conducted a daily program, regularly scheduled since 1958, on which he reported on the activities of his office. He terminated each program with a personal "Thought for the Day." Would his opponent be entitled to "equal opportunities?"

A. Yes. In light of the fact that the format and content of the program were determined by the sheriff and not by the station, the program was not of the type intended by Congress to be exempt from the "equal opportunities" requirement of section 315. (Stanley R. Cox, 40 F.C.C. 308, (1960).)

4. Q. A local weathercaster who was a candidate for reelection for Representative in the Texas Legislature was regularly employed by an AM and TV station in Texas. His weathercasts contained no references to political matters. He was identified over the air while a candidate as the "TX Weatherman." Would his opponent be entitled to "equal opportunities?"

A. No. The Court of Appeals, Fifth Circuit, ruled that the weathercaster's appearance did not involve anything but a bona fide effort to present the news; that he was not identified by name but only as the "TX Weatherman"; that his employment did not arise out of the election campaign but was a regular job; and that the facts did not reveal any favoritism on the part of the stations or any intent to discriminate among candidates. (KWTX Broadcasting Co., 40 F.C.C. 304 (1960), *aff'd*, Brigham v. FCC, 276 F. 2d 828 (C.C.A.5, 1960); but cf. Q's and A's III.B. 12, 13, and 15, *supra*, and Q. and A. III.C.5, *infra*, which reflect the Commission's more recent pronouncements in this area.)

5. Q. Where the facts are the same as those set forth in Q. and A. III.B.13, *supra*, would the appearances of the employee while a legally qualified candidate on news type programs constitute a "use" exempted from the provisions of 315 by reason of the 1959 Amendment?

A. No. The main purpose of the amendment was to allow greater freedom to the broadcaster in reporting news to the public, that is to say, in carrying news about and pictures of candidates as part of the contents of news programs. The amendment did not deal with the question of whether the appearance of station employees who have become candidates for office should be exempted on a news-type program where such employees are announcing the news (rather than being a part of the content

*An asterisk denotes a new question and answer.

of the news), any more than it dealt with the general question of such appearances (e.g., on a variety program or as a commercial continuity announcer), and the legislative history indicates that the appearance of the candidate on a news-type program in which he has participated in the "format and production" would not be exempt. (Newscaster Candidacy, 40 F.C.C. 433 (1965); but compare Q. and A. III.C.4, supra.)

6. Q. A Philadelphia TV station had been presenting a weekly program called "Eye on Philadelphia." This program consisted of personalities being interviewed by a station representative. Three candidates for the office of Mayor of Philadelphia, representing different political parties, appeared on the program. Would a write-in candidate for Mayor be entitled to "equal opportunities"?

A. No, since it was ascertained that the appearances of the three mayoral candidates were on a bona fide, regularly scheduled news interview program and that such appearances were determined by the station's news director on the basis of newsworthiness. (Telegram to Mr. Joseph A. Schafer, 40 F.C.C. 303 (1959), reconsideration denied; cf. telegrams to Mr. Kenneth F. Klinkert, 40 F.C.C. 427 (1964), David Dichter, 15 F.C.C. 2d 95 (1968).)

7. Q. A New York television station had been presenting a weekly program called "Search Light". This program consisted of persons, selected by the station on the basis of their newsworthiness, interviewed by a news reporter selected by the station, a member of the Citizens Union (a permanent participant initially selected by the station), and a station newsman who acted as moderator. Two candidates appeared on the program and were interviewed. Is a third opposing candidate entitled to "equal opportunities"?

A. No. The format of the program was such as to constitute a bona fide news interview pursuant to section 315(a)(2), since the program was regularly scheduled, was under the control of the licensee, and the particular program had followed the usual program format. (Telegram to Socialist Workers Party, 40 F.C.C. 322 (1961); cf. telegraph to Mr. Kenneth F. Klinkert, 40 F.C.C. 427 (1964).)

8. Q. A Washington, D.C., television station had been presenting a weekly program called "City Side". This program consisted of persons being interviewed by a panel of reporters. The panel was selected by the station and the persons interviewed were selected by the station on the basis of newsworthiness. Three candidates for the Democratic nomination for the office of Governor of Maryland were invited to appear on the program and one of them accepted. Would a fourth candidate for the same nomination, not invited by the station to appear, be entitled to "equal opportunities"?

A. No. It was determined that "City Side" was a regularly scheduled, weekly, live, news-interview program on the sta-

tion for approximately 6 years; that the normal format of the program consisted of the interview of a newsworthy guest or guests by a panel of reporters; that the appearances on the program were determined by the station on the basis of newsworthiness; and that it was on this basis that the three candidates were invited to appear. Such a program constitutes a bona fide news-interview program pursuant to section 315(a)(2). (Telegram to Mr. Charles Luthardt, Sr., 40 F.C.C. 345 (1962).)

9. Q. A New York television station had been presenting a weekly half-hour program series for over 2 years. The program, "New York Forum", was presided over by a station moderator and consisted of interviews of currently newsworthy guests by a panel of three lawyers. The guests were selected by the station in the exercise of its bona fide news judgment and not for the political advantage of any candidate for public office. The local bar association suggested the lawyer-interviewers to be used on a particular program but their final selection remained subject to the station's approval. The Democratic and Republican candidates for the office of Governor of New Jersey had appeared on separate programs in the series. Would a third party candidate be entitled to "equal opportunities"?

A. No. Such a program is a bona fide news interview and, as such, appearances on the program are exempt pursuant to section 315(a)(2). (Telegram to Socialist Labor Party of New Jersey, 40 F.C.C. 324 (1961).)

10. Q. Certain networks had presented over their facilities various candidates for the Democratic nomination for President on the programs "Meet the Press", "Face the Nation", and "College News Conference." Said programs were regularly scheduled and consisted of questions being asked of prominent individuals by newsmen and others. Would a candidate for the same nomination in a State primary be entitled to "equal opportunities"?

A. No. The programs were regularly scheduled, bona fide news interviews and were of the type which Congress intended to exempt from the "equal opportunities" requirement of section 315. (Letters to Mr. Andrew J. Easter, 40 F.C.C. 307 (1960); Lar Daly, 40 F.C.C. 310 (1960); Lar Daly, 40 F.C.C. 311 (1960); Honorable Frank Kowalski, 40 F.C.C. 355 (1962).)

11. Q. On September 30, 1962, one of the networks interviewed two Congressmen, one presenting the Republican Party view and the other presenting the Democratic Party view concerning legislative achievements of the current Congressional session. The program in which the Congressmen appeared, "Direct Line", was initiated in April 1959, and its format, nature, and content had not materially changed since its inception; it was produced and controlled by the network and was regularly scheduled on Sundays as a half-hour program, although the particular program had been expanded to an hour because of

preselection interest in the subject matter. The persons interviewed were asked questions submitted by viewers of the program, supplemented by questions prepared in cooperation with the League of Women Voters. The questions to be asked were selected exclusively by employees of the network and propounded by a moderator, also a network employee, although on some occasions, an additional person such as a news reporter assisted the moderator in asking questions. Would the opponent of one of the Congressmen running for re-election be entitled to "equal opportunities"?

A. No. On the basis of the information submitted, the Commission was of the view that the program "Direct Line" was a "bona fide news interview" within the meaning of section 315(a)(2) and, therefore, the Congressmen's appearances were exempt. (Telegram to Martin B. Dworkis, 40 F.C.C. 361 (1962).)

12. Q. One of the networks had been presenting a program called "Issues and Answers" each Sunday since November 27, 1960, and the format, nature, and content of the program had not changed since its inception. The program, originated, produced and controlled by the network in question, consisted of one or more news correspondents interviewing one or more nationally or internationally prominent individuals such as Government officials, U.S. Senators, U.S. Congressmen, foreign ambassadors, etc., on topics of national interest. The Minority Leaders of the Senate and House, one of whom was a candidate for reelection, were interviewed on the program as the official Republican Congressional spokesmen. The following week the official Democratic Congressional spokesmen appeared and were interviewed on the program. Would the opponent of the Republican spokesman who was running for reelection be entitled to "equal opportunities"?

A. No. The Commission ruled that the program "Issues and Answers" was a bona fide news interview program of the type which Congress intended to be exempt from the "equal opportunities" provisions of section 315. (Telegram to Yates For U.S. Senator Committee, 40 F.C.C. 368 (1962).)

13. Q. A candidate for the Democratic nomination for President was interviewed on a network program known as "Today." It was shown that this was a daily program emphasizing news coverage, news documentaries, and on-the-spot coverage of news events; that the determination as to the content and format of the interview and the candidate's participation therein was made by the network in the exercise of its news judgment and not for the candidate's political advantage; that the questions asked of the candidate were determined by the director of the program; and that the candidate was selected because of his newsworthiness and the network's desire to interview him concerning current problems and events. Would the candidate's opponent be entitled to "equal opportunities"?

A. No, since the appearance of the candidate was on a program which was

exempt from the "equal opportunities" requirement of section 315. (Lar Daly, 40 F.C.C. 314 (1960).)

14. Q. Does the appearance of a candidate on any of the following programs constitute a "use" under the "equal opportunities" provisions of section 315: "Meet the Press", "Youth Wants to Know", "Capitol Cloakroom", "Tonight", and "PM"?

A. The programs "Meet the Press" and "Youth Wants to Know" were specifically referred to during the Senate debates on the 1959 amendments as being regularly scheduled news interview programs of the type intended to be exempt from the "equal opportunities" provision of section 315. (Letter to Hon. Russell B. Long, 40 F.C.C. 351 (1962); Q. and A. III.C.10, supra; as to the "Tonight" program, see Q. and A. III.B.9, supra.)

15. Q. A candidate for Governor of the State of New York appeared on "The Barry Gray Show", a nightly news and discussion program which had been broadcast by the station, using the same format, for a period of at least 4 years. The program consisted of a series of interviews of indeterminate length with persons from all walks of life concerning newsworthy events. The show was interrupted five times nightly for 5-minute newscasts, two of which were given by Barry Gray. Barry Gray, an independent contractor, exercised day-to-day control over the program subject to overall and ultimate control by the station. Candidates appearing on the program were selected, not for their own political advantage, but on the basis that they were bona fide candidates and would serve to inform the audience on issues on which the audience would have to make a decision in order to vote. The station allowed Barry Gray the maximum latitude for initiative and editorial freedom. Barry Gray determined, on the basis of the interest value of the guest and the articulate manner in which he expressed himself on the topic under discussion, the amount of time to be allocated to any particular interview, and either actively participated in the discussion, acted as an impartial moderator in the interview, or on occasion, "talked the show" out if the guest was of little interest value. In some instances, the program consisted of an exchange of views and in other instances, constituted a panel discussion. Would the opponent of the candidate for Governor of New York be entitled to "equal opportunities"?

A. Yes. The Commission held that the definition of a bona fide news interview must be derived from the specific examples of such programs cited in the legislative history of the 1959 amendment to section 315. On the basis of the information submitted, the Commission could not determine that the Barry Gray Show was a bona fide news interview. (Telegram to WMCA, Inc., 40 F.C.C. 367 (1962); but compare Q. and A. III.C.13, supra.)

16. Q. A New Jersey television station had been presenting for approximately 2½ years a weekly program called "Between the Lines." This program con-

sisted of interviews by a station moderator of persons involved with current public events in New Jersey and New York. The incumbent, candidate for reelection to the State assembly, appeared on the program. Would his opponent be entitled to "equal opportunities"?

A. No. The Commission ruled that " * * * the program in question is the type of program Congress intended to be exempt from the equal time requirements of section 315." (James N. Fazio, 40 F.C.C. 318 (1960).)

17. Q. The "Governor's Radio Press Conference" is a weekly 15-minute program which has been broadcast approximately 2 years employing essentially the same format since its inception. In the program, the Governor-candidate is seated in his office and speaks into a microphone; each of the participating stations has selected a newsmen, who, while located at his respective station, asks questions of the Governor which the newsmen considers to be newsworthy. The questions are communicated to the Governor-candidate by telephone from the respective stations and the questions and the Governor's answers are communicated to the stations by the means of a broadcast line from his office to the stations. The questions and answers are taped both by his office and each of the participating stations, and no tapes are supplied by the Governor to the stations. Questions asked of the Governor and all of the material, including his answers, are not screened, or edited by anyone in his office or on his behalf. The program is unrehearsed and there is no prepared material of any kind used by the Governor or by anyone on his behalf. The newsmen are free to ask any question they wish and each program is under the control of the participating stations. Does the appearance of the Governor-candidate on said program constitute a "use" under the "equal opportunities" provision of section 315?

A. No. Since the program involves the collective participation of the stations' newsmen, is prepared by the stations, is under their sole supervision and control, has been regularly scheduled for a period of time, and was not conceived or designated to further the candidacy of the Governor, it was held to be a bona fide news interview program and, therefore, exempt from the "equal opportunities" provision of section 315. (Letter to Honorable Michael V. DiSalle, 40 F.C.C. 348 (1962).)

18. Q. The "Governor's Forum" program has been broadcast for approximately 8 months by several participating stations. In this program, the Governor-candidate is seated in his office and speaks into a microphone. The program consists of his answers to and questions submitted by the listening public. Questions asked are either telephoned or written to the stations or directly to his office. The questions which are telephoned or written to the several stations are forwarded to the principal participating station, which then selects the questions, edits the questions, and accumulates them on a tape. The questions telephoned or written to the Gov-

ernor's office are likewise selected and edited by his office for taping. The tape or tapes containing the questions are played in his office and the questions and the Governor's answers are then recorded on a master tape prepared by his office. Additional questions are asked of the Governor by the principal station's newsmen, present in the Governor's office, to amplify any prior question and answer. On occasion, further editing of the tape has been made by the Governor's office or by the stations. The tape is sent to each of the participating stations by the Governor's office. There is no prepared material or rehearsal by the Governor's office. Would the appearance by the Governor-candidate on the above program constitute a "use" under the "equal opportunities" provision of section 315?

A. Yes. Such a program is not a news-interview program as contemplated by section 315(a)(2). This conclusion has been reached since the selection and compilation of the questions, as well as the production, supervision, control, and editing of the program are not functions exercised exclusively by the stations. (Letter to Hon. Michael V. DiSalle, 40 F.C.C. 348 (1962).)

19. Q. A Congressman who was a candidate for reelection appeared in a news interview on a station and was interviewed by the station's Public Affairs Department regarding his experiences as a freshman Congressman. The program was described by the licensee as a "bona fide special news interview" and the licensee stated that it had sought the interview on the basis of its news judgment. The interview was conducted by a station employee and the questions asked related to current newsworthy events. The licensee stated further that although the program was a "special news interview" (the station did not broadcast regularly scheduled news interviews but presented special news interviews as the occasion arose and this was deemed by the licensee to be such an occasion), the interview itself and the format and nature of the questions were the same as in news interview programs of other newsworthy individuals and that the program was initiated, produced, and controlled by the licensee. Would the Congressman's opponent be entitled to "equal opportunities"?

A. Yes. The Commission pointed out that the legislative history of the 1959 amendment to section 315 clearly indicated that a basic element of a "bona fide news interview" is that it be regularly scheduled. Accordingly, it held that the Congressman's appearance did not occur in connection with a "bona fide news interview" within the meaning of section 315(a)(2) and that his appearance, therefore, constituted a "use" entitling his opponent to "equal opportunities." (Telegram to Station KFDX-TV, 40 F.C.C. 374 (1962).)

20. Q. CBS Television Network presented a 1-hour program entitled "The Fifty Faces of '62." The program consisted of a comprehensive news report of the current off-year elections and

campaigns. It included a brief review of the history of off-year elections, individual and group interviews, on-the-spot coverage of conventions and campaigns, and flashbacks of currently newsworthy aspects of the current campaigns and elections. In addition to the appearances on the broadcast of private citizens, voters, college students, and candidates, there were approximately 25 political figures, none of whom was on camera for more than approximately 2 or 3 minutes. Some of the candidates appearing on the program mentioned their candidacy; others, including the minority leader of the House of Representatives, who appeared in that capacity and discussed the prospect of his party in the Fall elections, did not discuss their candidacies. The determination as to who was to appear on the program was made solely by CBS News on the basis of its bona fide news judgment that their appearances were in aid of the coverage of the subject of the programs and not to favor or advance the candidacies of any of those who appeared, such appearances being incidental and subordinate to the subject of the documentary. Is the appearance on the program of a candidate, in his capacity as minority leader of the House of Representatives, a "use" within the "equal opportunities" provision of section 315?

A. No. Such a program is a bona fide news documentary pursuant to section 315(a)(3). The appearance of the candidate therein is incidental to the presentation of the subject covered by the documentary and the program is not designed to aid his candidacy. (Telegram to Judge John J. Murray, 40 F.C.C. 350 (1962).)

21. Q. A television station had been presenting since 1958 a weekly 30 minute program concerning developments in the State legislature with principal Democratic and Republican party leaders of both houses of the legislature participating. At the close of each legislative term, the station televised a one hour summary of the legislature's activities, using film and recordings made during its meetings. Is the appearance, in the latter program, of an officer of the State legislature, who is also a candidate, in which he and others express their views on the accomplishments of the legislative session a "use" under the "equal opportunities" provision of section 315?

A. No. For the reasons stated in Q. and A. III.C.20, supra.

22. Q. A former President expressed his views with respect to a forthcoming national convention of his party. A candidate for that party's nomination for President called a press conference at the convention site and immediately prior to the convention to comment on said views, which conference was broadcast by two networks. Would said candidate's opponent for the same nomination be entitled to "equal opportunities"?

A. No, since the appearance of the first candidate incidental to a political convention was on a program which constituted "on-the-spot coverage of bona

fide news events," pursuant to section 315(a)(4). (Letter to Lar Daly, 40 F.C.C. 316 (1960); see section 315(a)(4), and Q. and A. III.C.23, infra; but see Q. and A. III.B.7, supra for a ruling prior to the 1959 amendment.)

*23. Q. Are acceptance speeches made at a nominating convention by successful candidates for a political party's nomination for president and vice president uses which entitle other parties' candidates for those offices to "equal opportunities" under section 315?

A. No. Prior to 1959 any use of a station's facilities by a candidate for public office required the station to afford "equal opportunities" to other candidates for the same office. However, one of the specific types of news programs exempted by Congress was "on-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto)" in the language of 315(a)(4). The broadcast of an acceptance speech made at a political convention is an aspect of the coverage of the political convention. (Letter to Deberry-Shaw Campaign Committee, 40 F.C.C. 392 (1964). See also Q. and A. III.C.22, supra; but for a ruling prior to the 1959 Amendments see letter to Progressive Party, 40 F.C.C. 248, Q. and A. III.B.7, supra.)

24. Q. A Chicago television station covered the annual Saint Patrick Day parade in that city. During the broadcast, the Mayor, a candidate for reelection, appeared for 2 minutes. Would the Mayor's opponent be entitled to "equal opportunities"?

A. No. Broadcast coverage of a parade is the type of bona fide news event contemplated by Congress in enacting the 1959 amendments to section 315. Therefore, such a broadcast would appear to constitute "on-the-spot coverage of bona fide news events" pursuant to section 315(a)(4) and any appearance by a candidate during the course of such a broadcast would not constitute a "use" of broadcast facilities entitling opposing candidates to "equal opportunities." (Letter to Lar Daly, 40 F.C.C. 377 (1963).)

25. Q. An Indiana station presented the County Court Judge, who was a candidate for the Democratic mayoralty nomination in Gary, Ind., on a program entitled "Gary County Court on the Air". The program had been broadcast live by the station as a public service for the past 14 years, each Monday, Wednesday, Thursday and Friday from 9:05 a.m. to 10 a.m. One of the programs was taped for broadcast 1 day prior to the actual broadcast. The station had met with the presiding Judge some 14 years prior to the election in question to arrange for the broadcasts and each succeeding judge had agreed to continue the program because of its public interest value. For 7½ years prior to the election in question, the judge who was a candidate for the mayoralty nomination had appeared on the program. Persons appearing in the court had the privilege of declining to have their cases heard during broadcast time to prevent invasion of privacy. If, in the opinion of the pre-

siding judge, certain cases did not lend themselves to broadcast, they were heard at times when the proceedings were not being covered by the station. The court was the usual type of City Court, handling a variety of cases and was not solely a traffic court, and it was, generally, impossible for the judge to control the content and/or persons who did appear. The program could not be by its nature and was not, by licensee insistence, tailored to suit the judge who was a candidate. The format of "Gary County Court on the Air" had remained unchanged since the inception of the program. The station used City Court case decisions on its regularly scheduled newscasts and such decisions also appeared in Gary newspapers. Would the Judge's opponent for the nomination for Mayor be entitled to "equal time"?

A. No. The Commission concluded that the program fell within the "news event" exemption of section 315(a)(4) because the program covered the operation of an official governmental body and because the court proceedings were newsworthy. The Commission held that the program was "bona fide" in view of the fact that it had been presented by the station for 14 years, with this particular judge for 7½ years, and inasmuch as the appearance of the candidate was incidental to the on-the-spot coverage of a news event rather than for the purpose of advancing his candidacy. Therefore, the Commission ruled that "Gary County Court on the Air" fell within the reasonable latitude allowed to licensees for the exercise of good faith news judgment and was exempt from the "equal time" requirement of section 315. (Letter to Thomas R. Fadell, Esq., 40 F.C.C. 379 (1963); affirmed by order entered Apr. 29, 1963, Thomas R. Fadell v. U.S., FCC and WWCA Radio Station, Case No. 14142 (U.S.C.A., 7th 1963).)

26. Q. On September 30, 1962, two candidates for the office of Governor of California held a 1-hour debate which was given coverage on every major television station in California, the time being donated by the stations carrying the debate. The debate was held in San Francisco as part of the annual convention of United Press International which had invited the two candidates to appear and had invited all news media to cover the event. The debate was not arranged by the stations but was broadcast by them as a public service and in the exercise of their bona fide news judgment. No other aspect of the UPI convention was broadcast other than the joint appearance of the two candidates. A third candidate for the same office requested "equal opportunities" and the stations denied the request on the basis that the prior appearances constituted "on-the-spot coverage of a bona fide news event" pursuant to section 315(a)(4) of the Communications Act. Was the third candidate entitled to "equal opportunities"?

A. Yes. The Commission held that neither the language of the amendment, the legislative history nor subsequent Congressional action indicated a Congressional intent to exempt from the

*An asterisk denotes a new question and answer.

"equal opportunities" provision of section 315 a debate qua debate between legally qualified candidates. The Commission pointed out that the bona fides of the licensee's news judgment, while not questioned, was not the sole criterion to be used in determining whether section 315(a)(4) had been properly invoked. It was concluded that where the appearance of the candidates was designed by them to serve their own political advantage and such appearance was ultimately the subject of a broadcast program encompassing only their entire appearance, such program cannot be considered to be on-the-spot coverage of a bona fide news event simply because the broadcaster deems that the candidates' appearance (or speeches) will be of interest to the general public and, therefore, newsworthy. (Telegram to Robert L. Wyckoff, 40 F.C.C. 366 (1962), reconsideration denied in letter to Robert L. Wyckoff, 40 F.C.C. 370 (1962); cf. letter to The Goodwill Station, Inc., 40 F.C.C. 362 (1962), the ruling mentioned in Robert L. Wyckoff telegram, supra at 366; see In re Socialist Labor Party, 15 F.C.C. 2d 98 (1968), aff'd per curiam by order entered Oct. 31, 1968, sub nom, Taft Broadcasting Co. v. F.C.C., Case No. 22445 (C.A.D.C., 1968); See also Q. and A. VI.B.6, infra. The Advocates, 23 F.C.C. 2d 462 (1970); reconsideration denied.)

*27. Q. The Columbia Broadcasting System, Inc., advised the Commission that over the years it had become the practice of the President to hold press conferences; that President Johnson had held such conferences on a periodic, though irregular, basis in the past and would undoubtedly hold press conferences prior to election day, as would his opposing candidate Senator Goldwater. CBS stated that it considered Presidential press conferences important news events, and had given them such broadcast coverage as it in its news judgment had thought was warranted and that it believed it would be in the public interest to continue to cover these press conferences, as well as those of Senator Goldwater, or some of them, in whole or in part, provided this would not require it to afford equal time to all other persons who might also be candidates for the presidency. Would such press conferences be exempt from the requirements of section 315 on the ground that the appearances were considered to be either "bona fide news interviews" or "on the spot coverage" of "bona fide news events"?

A. No. The broadcast of press conferences, such as the one described in the inquiry, would not be exempt from the provisions of section 315 either as "bona fide news interviews" or "on the spot coverage of a bona fide news event." The press conference could not qualify as a "bona fide news interview" exemption inasmuch as it was not a regularly scheduled program, within the recognized and accepted meaning of that

term, but rather was one that could be called by the candidates solely in their discretion and at times they themselves specify. Such a press conference could not, in any event, qualify for exemption, since the scheduling and in significant part the content and format of the press conference was not under the control of the network. In addition the broadcast of the press conference could not be deemed to be an "on-the-spot coverage of a bona fide news event," since prior Commission rulings issued on October 19 and 26, 1962 (see Q. and A. III.C.26, supra) pointed out inter alia, " * * * that if the sole test of the on-the-spot coverage exemption is simply whether or not the station's decision to cover the event and put it on a broadcast program constitutes a bona fide news judgment, there would be no meaning to the other three exemptions in section 315(a) since these, too, all involve a bona fide news judgment by the broadcaster." Such a test would, in effect, amount to a repeal of the "equal opportunities" provision of section 315(a)—something Congress clearly did not intend, as shown, for example by the necessity for the suspension of that provision for the 1960 debates between the two major presidential candidates. (Letter to Columbia Broadcasting System, Inc., 40 F.C.C. 395 (1964); In re Socialist Labor Party, 15 F.C.C. 2d 98 (1968), aff'd per curiam by order entered Oct. 31, 1968, sub nom, Taft Broadcasting Co. v. F.C.C., and U.S.A. Case No. 22445 (C.A.D.C., 1968).)

28. Q. The President of the United States during a presidential campaign used 15 minutes of radio and television time to address the Nation with respect to an extraordinary international situation in the Middle East (the so-called Suez crisis). Would the networks carrying this address be obliged to afford "equal opportunities" to the other presidential candidates?

A. No. On the basis of the legislative history of section 315 the Commission concluded that Congress did not intend to grant equal time to all presidential candidates when the President uses the air waves in reporting to the Nation on an international crisis. (Section 315 interpretations Telegrams to CBS, NBC, and ABC, 40 F.C.C. 276 (1956).)

29. Q. The President of the United States, upon the recommendation of the National Security Council, went on the air to deliver a report to the Nation with respect to an important announcement by the Soviet Government as to change in its leadership, and the explosion by Communist China of a nuclear device. Would the President's opponents for the Presidency be entitled to "equal opportunities"?

A. No. The networks carrying the report, in determining that such a report by the President on specific, current international events affecting the country's security falls within the "on-the-spot coverage of a bona fide news event" exemption of section 315(a)(4), acted within their "reasonable latitude for the exercise of good faith news judgment." The Commission also discussed its previous ruling of 1956 (Q. and A. III.C.28

supra) and noted that this ruling had been fully reported to the Congress and that Congress had reexamined the concept of "use" in connection with extensive amendments in 1959 to section 315, but did not alter or comment adversely upon the 1956 ruling. (Letter to Republican National Committee, 40 F.C.C. 408 (1964), aff'd per curiam by an equally divided Court by order entered October 27, 1964, sub nom, Goldwater v. F.C.C. and U.S.A., Case No. 18963 (C.A.D.C. 1964); cert. den. 379 U.S. 893 (1964).)

*30. Q. The complainant stated that an opposing candidate for public office had appeared on "NET Journal" and he demanded "equal opportunities" based on this appearance. Is this program one of the kind which Congress meant to exempt under 315(a)(2) so that an appearance thereon would not establish any equal opportunity rights?

A. Yes. "NET Journal" was a regularly scheduled program; the format, although varying depending on the issues examined, included debates, panel discussions, documentary films, video tape documentaries and combinations thereof; the news-interview type format was regularly used on the program; the format was determined by the NET staff and the questions used in the news interview were formulated by the program producer and NET Public Affairs department; the factors in selecting interviewees were the public significance of the individuals and their news interest; and the program had been on the air every week for almost 2 years. (In re Socialist Workers 1968 National Campaign Committee, 14 F.C.C. 2d 858 (1968).)

*31. Q. Licensee had broadcast weekdays, since June 14, 1965, a regularly scheduled phone-in program entitled "Phone Forum." The program was prepared and produced by the station's news department; the station's news director selected the guests, including candidates for public office, on the basis of newsworthiness and availability. During the program, questions were directed to the guest by members of the listening public by telephone. The moderator of the program used a 4-second tape delay to exclude questions phoned in by listeners using offensive language and those which posed unsuitable questions, i.e., not relevant to the topic of the specific program. The moderator prepared a list of questions which were asked the guest when no questions were being phoned in. The views of listeners were neither solicited nor broadcast. Was this program exempt as a "bona fide news interview"?

A. The Commission assumed that the licensee's employees exercised control not only as to the suitability of the questions asked but also to insure that the program couldn't be taken over by either the supporters or opponents of the guest candidates. The Commission held that merely because the questions were posed by the listening public did not remove it from the category of a bona fide news interview. It also stated that this type of program was readily distinguishable from the "open mike" format of programming which generally consists of an

*An asterisk denotes a new question and answer.

airing of the views of callers on various subjects but which occasionally may also feature a guest who is a public figure and answers questions. On "Phone Forum", the program sought primarily to elicit the views of the guest-interviewee. (Letter to Socialist Labor Party, 7 F.C.C. 2d 857 (1967).)

*32. Q. On the occasion of a visit to a community by a presidential candidate during the course of the election campaign, a licensee arranged and broadcast a 30-minute "press conference" during which the candidate was interviewed on problems of particular interest to the community by three prominent public officials selected by the news staff of the licensee. All questions asked were selected by the interviewers and the candidate had no advance knowledge of the questions and no opportunity to make any statements other than in answer to the questions. The station contended that the broadcast constituted on-the-spot coverage of a bona fide news event, that the program consisted of a bona fide news interview, and that therefore the candidate's appearance on the program did not constitute a use of the station under section 315. The station contended that the news interview exemption was not limited to regularly scheduled programs and while Congress did not intend to exempt interviews which are under the control of the candidate, this program should be exempt since it was not controlled by the candidate. Was the broadcast a section 315 "use" entitling an opposing candidate to equal opportunities?

A. Yes. The broadcast was not exempt either as on-the-spot coverage of a bona fide news event or a bona fide news interview. With respect to the first point, the Commission cited many analogous cases where it had ruled the exemption did not apply in light of the legislative history and the fact that any other ruling on this point would mean that by adding section 315(a)(4), Congress, in effect, largely repealed the equal opportunities provision of section 315. The Commission further stated that it has consistently held in the light of legislative history of section 315(a)(2), that in order to qualify as a "bona fide news interview" the program must be regularly scheduled. (In re Socialist Labor Party, 15 F.C.C. 2d 98, aff'd per curiam by order entered Oct. 31, 1968, sub nom Taft Broadcasting Co. v. F.C.C., Case No. 22445 (C.A.D.C., 1968).)

IV. Who is a Legally Qualified Candidate?

IV 1. Q. How can a station know which candidates are "legally qualified"?

A. The determination as to who is a legally qualified candidate for a particular public office within the meaning of section 315 and the Commission's rules must be determined by reference to the law of the State in which the election is being held. In general, a candidate is legally qualified if he can be voted for

in the State or district in which the election is being held, and, if elected, is eligible to serve in the office in question.

2. Q. Need a candidate be on the ballot to be legally qualified?

A. Not always. The term "legally qualified candidate" is not restricted to persons whose names appear on the printed ballot; the term may embrace persons not listed on the ballot if such persons are making a bona fide race for the office involved and the names of such persons, or their electors can, under applicable law, be written in by voters so as to result in their valid election. The Commission recognizes, however, that the mere fact that any name may be written in does not entitle all persons who may publicly announce themselves as candidates to demand time under section 315; broadcast stations may make suitable and reasonable requirements with respect to proof of the bona fide nature of any candidacy on the part of applicants for the use of facilities under section 315. (§§ 73.120, 73.290, 73.657, esp. par. (f) of the Commission rules; letters to Socialist Party of America, 40 F.C.C. 239 (1951); Columbia Broadcasting System, Inc., 40 F.C.C. 244 (1952); Lar Daly, 40 F.C.C. 270 (1956); reconsideration denied; "Legally Qualified Candidate", 40 F.C.C. 233 (1941); see also Q.'s and A.'s IV. 10, 11, 12, 13, 14, 15, and 16, infra.)

3. Q. May a person be considered to be a legally qualified candidate where he has made only a public announcement of his candidacy and has not yet filed the required forms or paid the required fees for securing a place on the ballot in either the primary or general elections?

A. The answer depends on applicable State law. In some States persons may be voted for by the electorate whether or not they have gone through the procedures required for getting their names placed on the ballot itself. In such a State, the announcement of a person's candidacy—if determined to be bona fide—is sufficient to bring him within the purview of section 315. In other States, however, candidates may not be "legally qualified" until they have fulfilled certain prescribed procedures. The applicable State laws and the particular facts surrounding the announcement of the candidacy are determinative. (Letter to Honorable Earle C. Clements, 23 F.C.C. 2d 756 (1954); see letter to Clinton D. McKinnon, 40 F.C.C. 291 (1952).)

4. Q. May a station deny a candidate "equal opportunities" because it believes that the candidate has no possibility of being elected or nominated?

A. No. Section 315 does not permit any such subjective determination by the station with respect to a candidate's chances of nomination or election. (Letter to Columbia Broadcasting System, Inc., 40 F.C.C. 244 (1952).)

5. Q. When is a person a legally qualified candidate for nomination as the candidate of a party for President or Vice President of the United States?

A. In view of the fact that a person may be nominated for these offices by the conventions of his party without having

appeared on the ballot of any State having presidential primary elections, or having any pledged votes prior to the convention, or even announcing his willingness to be a candidate, no fixed rule can be promulgated in answer to this question. Whether a person so claiming is in fact a bona fide candidate will depend on the particular facts of each situation, including consideration of what efforts, if any, he has taken to secure delegates or preferential votes in State primaries. It cannot, however, turn on the licensee's evaluation of the claimant's chances for success. (Letter to Columbia Broadcasting System, Inc., 40 F.C.C. 244 (1952); and see also par. (f) of §§ 73.120, 73.290, 73.657, and par. (e) of § 74.1113 of the Commission rules.)

6. Q. Has a claimant under section 315 sufficiently established his legal qualifications when the facts show that after qualifying for a place on the ballot for a particular office in the primary, he notified State officials of his withdrawal therefrom and then later claimed he had not really intended to withdraw, and where the facts further indicated that he was supporting another candidate for the same office and was seeking the nomination for an office other than the one for which he claimed to be qualified?

A. No. Where a question is raised concerning a claimant's legal qualification, it is incumbent on him to prove that he is in fact legally qualified. The facts here did not constitute an unequivocal showing of legal qualification. (Letter to Lar Daly, 40 F.C.C. 270 (1956), reconsideration denied; cf. letter to American Vegetarian Party, 40 F.C.C. 278 (1956).)

7. Q. If a candidate establishes his legal qualifications only after the date of nomination or election for the office for which he was contending, is he entitled to equal opportunities which would have been available had he timely qualified?

A. No, for once the date of nomination or election for an office has passed, it cannot be said that one who failed timely to qualify therefor is still a "candidate". The holding of the primary or general election terminates the possibility of affording "equal opportunities", thus mooted the question of what rights the claimant might have been entitled to under section 315 before the election. (Letter to Socialist Workers' Party, 40 F.C.C. 281 (1956), referring to letter to Socialist Workers' Party, 40 F.C.C. 280 (1956); letter to Mr. Lar Daly, 40 F.C.C. 273 (1956); aff'd. by order dismissing appeal entered Mar. 7, 1957, Lar Daly v. U.S.A. and F.C.C., Case No. 11946 (C.C.A. 7, 1957) rehearing denied by order entered Apr. 2, 1957; cert. den., 355 U.S. 826, rehearing denied 355 U.S. 885 (1957).)

8. Q. Under the circumstances stated in the preceding question, is any post-election remedy available to the candidate, before the Commission, under section 315?

A. None, insofar as a candidate may desire retroactive "equal opportunities". But this is not to suggest that a station can avoid its statutory obligation under

* An asterisk denotes a new question and answer.

section 315 by waiting until an election has been held and only then disposing of demands for "equal opportunities". (See citations in Q. and A. IV.7, supra).

9. Q. A, a candidate for the Democratic Party nomination for President, appeared on a variety program prior to the nominating convention because of the prior appearance of B, his opponent. After the closing of the convention, A claimed he was entitled to additional time in order to equalize his appearance with that afforded B. Would A be entitled to additional time?

A. No. A licensee may not be required to furnish the use of its facilities to a candidate for nomination for President after the convention has chosen its nominee. (Telegram to Lar Daly, 40 F.C.C. 317 (1960), reconsideration denied.)

10. Q. When a State Attorney General or other appropriate State official having jurisdiction to decide a candidate's legal qualification has ruled that a candidate is not legally qualified under local election laws, can a licensee be required to afford such "candidate" "equal opportunities" under section 315?

A. In such instances, the ruling of the State Attorney General or other official will prevail, absent a judicial determination. (Telegram to Ralph Muncy, 23 F.C.C. 2d 766 (1956); letter to Socialist Workers' Party, 40 F.C.C. 280 (1956); In re Lester Posner, 15 F.C.C. 2d 807 (1968); Q. and A. IV.16, infra.)

*11. Q. A television station afforded time to the Democratic candidate for the State of California for the U.S. Senate. The station subsequently turned down a request from the Socialist Labor Party for time for their candidate for the same office, on the basis of a telegram which it had received from the Secretary of State of the State of California which declared that he did not consider the Socialist Labor Party candidate a legally qualified candidate under provisions of the California Election Code. The candidate in question was duly nominated and had accepted the nomination at the Party State Convention; the Secretary of State's office was officially notified of his nomination; notification of his candidacy was sent to all news media and was published in the metropolitan newspapers; he had addressed public meetings in four large California cities on behalf of his candidacy. Upon request of the Secretary of State the Deputy Attorney General advised the Commission that under California election law write-in votes may be cast and counted for an individual seeking the office of U.S. Senator and if the individual received a plurality of the votes cast for the office the Secretary of State would certify the individual as having been elected. Would the candidate be considered legally qualified so as to be entitled to "equal opportunities" for the use of the station's facilities?

A. Yes. The Commission's rules define a legally qualified candidate, in part, as any person who has publicly announced that he is a candidate; meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate so that he may be voted

for by the electorate; is eligible under the law to be voted for by writing in his name on the ballot; and makes a substantial showing that he is a bona fide candidate for nomination or office. On the basis of the facts recited it was determined that the candidate was a legally qualified candidate and as such was entitled to "equal opportunities." (Letter to Socialist Labor Party of California, 40 F.C.C. 423 (1964).)

*12. Q. An incumbent county clerk having publicly announced his intention to run for renomination in an upcoming primary continued to broadcast sports events and otherwise speak on radio. It appeared that he had not filed his notification and declaration papers with the appropriate State official. Is a legally qualified candidate for the same nomination entitled to "equal opportunities" in response to the broadcast by the incumbent?

A. No. The State Attorney General indicated that a person does not become a legally qualified or "bona fide" candidate in the primary until his notification and declaration papers have been received and accepted by the applicable State officer. Since the incumbent county clerk had not filed these required papers, he was not a legally qualified candidate under section 73.120(a) of the Commission rules at the time of his broadcasts. His opponent, therefore, was not entitled to "equal opportunities" to respond to these broadcasts. (Letter to Rady Davis, 40 F.C.C. 435 (1965); see Q. and A. IV.16, infra.)

*13. Q. When a State Secretary of State has ruled that an individual has not followed the procedures required by State law for becoming a legally qualified candidate for U.S. Senator from that State, can a licensee be required to afford that individual "equal opportunities" under section 315?

A. No. When it appears that a State Secretary of State has ruled that an individual is not a legally qualified candidate under the State election law and that individual has presented no further information regarding his claimed candidacy, he has failed to meet the burden imposed by section 73.120(f) of the Commission's rules of proving that he is a legally qualified candidate for public office under section 73.120(a) of those rules. (Letter to Socialist Workers Party, 40 F.C.C. 421 (1964).)

*14. Q. An individual seeking a U.S. Senate seat requested time from a station equal to that afforded his opponents. The individual's request had been refused by the station on the grounds that he was not a bona fide candidate. The candidate informed the Commission that he had been advised by the local election board that he possessed the necessary requisites to be a write-in candidate and claimed that he was thus entitled to equal time. Would the individual be entitled to equal opportunities under these circumstances?

A. No. The Commission found that the individual had not complied with the Commission's rules for establishing one's

*An asterisk denotes a new question and answer.

self as a legally qualified candidate. He had failed to submit any proof other than his own statements relating to whether he was "eligible under the applicable law to be voted for * * * by writing in his name on the ballot." Therefore, he had not met his burden of proof under section 73.657(f) of the rules. (Letter to Raymond Harold Smith, 40 F.C.C. 430 (1964); see Mr. Roy Anderson, 14 F.C.C. 2d 1064 (1968), aff'd per curiam, Anderson v. Federal Communications Commission, 403 F. 2d 61 (C.C.A. 2, 1968), which although it made no determination of the legal qualifications of the complainant, set forth some criteria in this area.)

*15. Q. The names of candidates for delegates to the national political convention did not appear on the ballot in the Primary of a certain State. The electorate voted solely for the candidate for nomination to the Presidency, including favorite son candidates. If a licensee presents a delegate in such a fashion that would constitute a "use" if he were a legally qualified candidate for a public office, would it constitute a "use" here?

A. No. The Secretary of State, with the concurrence of the State's Attorney General, stated that the State did not consider a candidate for delegate on a slate of delegates in a Presidential Primary to be a legally qualified candidate for any public office. In view of this fact, the candidate was not a legally qualified candidate for any public office and his appearances would not constitute a "use" within the meaning of section 315. (In re KNBC-TV, 23 F.C.C. 2d 765 (1968); see also In re Lester Posner, 15 F.C.C. 2d 807 (1968).)

*16. Q. Under State law, the General Assembly was preparing to vote to fill a vacancy in the office of Governor. The complainant asserted that he was a legally qualified candidate for the office of Governor. The licensee contended that the complainant was not a legally qualified candidate for public office within the meaning of section 315 and forwarded a letter from the Deputy Attorney General of the State, which stated that the forthcoming legislative action by the General Assembly choosing a new governor was not an election under State law by which the voters of the State would elect a governor. Under this fact situation, was the complainant entitled to equal opportunities?

A. No. The position of the licensee that the complainant had no right to time under section 315 was not unreasonable in light of the circumstances of the case. (In re Lester Posner, 15 F.C.C. 807 (1968).)

*17. Q. A write-in candidate for Mayor sought equal time to that given to the only two candidates for that office whose names appeared on the ballot. The State law provided that only the two candidates for each elective position receiving the greatest number of votes cast in the city primary election would become the "official candidates" for the final election. The Secretary of State, the "Ex Officio Chief Elections Officer," stated that write-in candidates were not "official candidates" and that there was no statutory provision whereby a person

could be "officially" identified as a write-in candidate. Therefore only the candidates whose names were printed on the ballot could qualify as official candidates and only these official ones were entitled to "equal time" under section 315. The licensee stated that under the Commission rule regarding write-in candidates, this candidate appeared to be legally qualified in that he met the requirements of the laws of the State to hold office and his name could be written on the ballot if any voter so desired. Was the write-in candidate entitled to equal time?

A. Yes. The Commission observed that the Secretary of State had stated that write-in candidates were not "official candidates," but that he did not state that they were not "legally qualified candidates." After quoting from § 73.657(a), the Commission noted that the write-in candidate met the requirements of state laws to hold office and could be written in on the ballot by any voter who so desired. The Commission stated that the write-in candidate may be a legally qualified candidate under the Commission rules if he made a substantial showing that he was a bona fide candidate. (In re Request by Tom Leonard, 20 F.C.C. 2d 177 (1969).)

18. Q. The networks broadcast a program entitled "A conversation with President Johnson" on December 19, 1967. The President had not publicly announced his intention to be a candidate for his party's nomination for president and refused to speculate about the matter during the program in question stating that he had not made his decision about running again and " * * * in due time * * * will cross that bridge." Complainant, who had publicly announced his intention to seek the presidential nomination of the same party as the President's, requested equal time contending that he and the President were opposing candidates for the nomination of their party for President of the United States. Was the complainant entitled to equal time under the above facts?

A. No. The Commission's rules, in effect for over 25 years and adhered to without exception, provide that a person is not a legally qualified candidate within the meaning of the statute unless he had publicly announced his intention to be a candidate. In re Senator Eugene J. McCarthy, 11 FCC 2d 511 (1968), aff'd. Eugene McCarthy v. Federal Communications Commission, 390 F.2d 471 (D.C. Cir. 1968), in which the Court stated that: "[t]he obvious difficulty in determining whether a likely public figure is a candidate within the intent of the statute justifies the Commission in promulgating a more or less absolute rule. If the application of such a rule more often than not produces a result which accords with political reality, its rational basis is established. * * * Considering the content and the timing of the not unprecedented year-end interview with the President, we cannot say that the application of the Commission's Rule in this case without the requested hearing

produced an unreasonable result." (See § 73.657(a) of the Commission rules which indicates the criteria in addition to a public announcement which must be met to be considered a legally qualified candidate.)

*19. Q. A complainant stated that he disagreed with a licensee's determination that he was a legally qualified candidate. He had publicly announced his intention to seek the nomination of his party for Governor. He stated that there were only three procedures whereby a person could be listed on his party's primary ballot and he was not a legally qualified candidate until he had completed one of them. The licensee contended that under certain circumstances a person designated by a meeting of the State Committee of the party could become the nominee of the party without any primary being held. Was the licensee's determination that the complainant was a legally qualified candidate reasonable?

A. Yes. It was possible that the complainant could become his party's nominee solely by action of the party's State Committee and because § 73.657(a) of the Commission rules provides, *inter alia*, that "a 'legally qualified candidate' means any person who has publicly announced that he is a candidate for nomination by a convention of a political party * * *", the licensee's judgment was not unreasonable. (Letter to Mr. William vanden Heuvel, 23 F.C.C. 2d., 119 (1970).)

V. When Are Candidates Opposing Candidates?

V. 1. Q. What public offices are included within the meaning of section 315?

A. Under the Commission's rules, section 315 is applicable to both primary and general elections, and public offices include all offices filled by special or general election on a municipal, county, state, or national level as well as the nomination by any recognized party of a candidate for such an office.

2. Q. May the station under section 315 make time available to all candidates for one office and refuse all candidates for another office?

A. Yes. The "equal opportunities" requirement of section 315 is limited to all legally qualified candidates for the same office.

3. Q. If the station makes time available to candidates seeking the nomination of one party for a particular office, does section 315 require that it make equal time available to the candidates seeking the nomination of other parties for the same office?

A. No, the Commission has held that while both primary elections or nominating conventions and general elections are comprehended within the terms of section 315, the primary elections or conventions held by one party are to be considered separately from the primary elections or conventions of other parties, and, therefore, insofar as section 315

*An asterisk denotes a new question and answer.

is concerned, "equal opportunities" need only be afforded legally qualified candidates for nomination for the same office at the same party's primary or nominating convention. The station's actions in this regard, however, would be governed by the public interest standards encompassed within the "fairness doctrine". (Letters to KWFT, Inc., 40 F.C.C. 237 (1948); Socialist Labor Party, 40 F.C.C. 240 (1952); Carbondale Broadcasting Company, 40 F.C.C. 259 (1953); Honorable Joseph S. Clark, 40 F.C.C. 325 (1962); Honorable Joseph S. Clark, 40 F.C.C. 332; Mrs. Eleanor Clark French, 40 F.C.C. 417 (1964); Telegrams to The Lueddeke For Governor Committee, 40 F.C.C. 320 (1961); Mr. Paul H. Rivet, 40 F.C.C. 437 (1965); Q. and A. V.5, *infra*; see letter to Lar Daly, 40 F.C.C. 302 (1959); see also letter to Greater New York Broadcasting Corp., 40 F.C.C. 235 (1946).)

4. Q. If the station makes time available to all candidates of one party for nomination for a particular office, including the successful candidate, may candidates of other parties in the general election demand an equal amount of time under section 315?

A. No. For the reason given in Q. and A. V.3, *supra*. (Letter to KWFT, Inc., 40 F.C.C. 237 (1948).)

5. Q. On May 3, 1964, an incumbent Congressman from New York was afforded time to appear on a television program. At that time he was the only person who had been designated by petition under New York law as the Republican nominee for his Congressional seat. The complainant at that date was the only designated Democratic—Liberal nominee. Primaries for both parties were due to be held on June 2, 1964. However, if no further nominees were designated by April 28, 1964, and if no petitions for write-in nominees were filed by May 5, 1964, no primary would be held, since the incumbent and the complainant each would have the uncontested nomination of his respective party. In fact, no further petitions, either "designating" or "write-in," were ever filed. Was the licensee correct in refusing "equal opportunities" to the complainant in response to incumbent's May 3, broadcast on the ground that on that date each was merely a candidate for his respective party's nomination, and thus they were not opposing candidates for the same office?

A. Yes. The issue must be determined under the New York State election laws and should be resolved by appropriate State or local authorities. Since neither the complainant nor the Commission was able to obtain an interpretation of that law from the New York authorities, the Commission of necessity interpreted the law. An "uncontested position" as defined by the New York statute is one as to which (1) the number of candidates designated for the particular office does not exceed the number to be nominated or elected thereto by the party in the primary, and (2) no valid petition requesting an opportunity to write-in the name of an undesignated candidate has

been filed. If both conditions are fulfilled when the period for filing such petitions is over (May 5), no primary is required. Since condition (2) of this definition could not be fulfilled until May 5, 1964, 2 days after the Republican incumbent's broadcast, neither designated candidate here involved could be considered the nominee of his respective party until May 5, and, therefore, they were not opposing candidates for Congress at the time of incumbent's broadcast. (Letter to Mrs. Eleanor Clark French, 40 F.C.C. 417 (1964); cf. Honorable Clarence E. Miller, 23 F.C.C. 2d 121 (1970).)

VI. What Constitutes Equal Opportunities?

A. IN GENERAL.

VIA. 1. Q. Generally speaking, what constitutes "equal opportunities"?

A. Under section 315 and §§ 73.120, 73.290, and 73.657 of the Commission's rules, no licensee shall make any discrimination in charges, practices, regulations, facilities, or services rendered to candidates for a particular office.

2. Q. Is a licensee required or allowed to give time free to one candidate where it had sold time to an opposing candidate?

A. The licensee is not permitted to discriminate between the candidates in any way. With respect to any particular election it may adopted a policy of selling time, or of giving time to the candidates free of charge, or of giving them some time and selling them additional time. But whatever policy it adopts, it must treat all candidates for the same office alike with respect to the time they may secure free and that for which they must pay.

3. Q. Is it necessary for a station to advise a candidate or a political party that time has been sold to other candidates?

A. No. The law does not require that this be done. If a candidate inquires, however, the facts must be given him. It should be noted here that a station is required to keep a public record of all requests for time by or on behalf of political candidates, together with a record of the disposition and the charges made, if any, for each broadcast. (§§ 73.120(d), 73.290(d), 73.657(d); and (47 C.F.R. 74.1113(c) (1970) of the rules; telegram to Norman William Seeman, Esq., 40 F.C.C. 341 (1962); letter to Honorable William Benton, 40 F.C.C. 1081 (1950).)

4. Q. If a station desires to make its facilities available on a particular day for political broadcasts to all candidates for the same office, is one of the candidates precluded from requesting "equal opportunities" at a later date if he does not accept the station's initial offer?

A. This depends on all of the circumstances surrounding the station's offer of time and, particularly, whether the station has given adequate advance notice. The Commission has held that a 4-day notice by a Texas station to a Congressman while Congress is in ses-

sion does not constitute adequate advance notice and the Congressman is not foreclosed from his right to request "equal opportunities". (Letter to KTRM, 40 F.C.C. 335 (1962) but compare letter to Senate Committee on Commerce, 40 F.C.C. 357 (1962), Q. and A. VI.B.8., infra.)

5. Q. With respect to a request for time by a candidate for public office where there has been no prior "use" by an opposing candidate, must the station sell the candidate the specific time segment he requests?

A. No. Neither the Act nor the Commission's rules contain any provisions which require a licensee to sell a specific time segment to a candidate for public office. (Letter to KTRM, 40 F.C.C. 331 (1962) but see Q. and A. VI.A.14, infra.)

6. Q. Is a station required to sell to a candidate time which is unlimited as to total time and as to the length of each segment?

A. Neither the Act nor the Commission's rules contain provisions requiring stations to sell unlimited periods of time for political broadcasts. Section 315 of the Act imposes no obligation on any licensee to allow the use of its station by any candidate. Commission's programming statement contemplates the use of stations for political broadcasting. Where the station showed that sale of limited time segments to candidates was based on its experience and the interests of viewers in programming diversification, no Commission action was required. (Telegrams to Mr. J. B. Lahan, 40 F.C.C. 342 (1962) to Grover C. Doggette, Esq., 40 F.C.C. 346 (1962); to Grover C. Doggette, 40 F.C.C. 347 (1962); see Q. and A. IV.A.14 infra; cf. letters to Station WLBT-TV, 40 F.C.C. 333 (1962) and Radio Station WROX, 40 F.C.C. 339 (1962). In a public notice entitled, Licensee Responsibility as to Political Broadcasts, 15 F.C.C. 2d 94 (1968), the Commission apprised licensees of " * * the desirability of making their facilities effectively available to candidates for political office even though this may require modification of normal station format." See also: In re Complaint of W. Roy Smith, 18 F.C.C. 2d 747 (1969), and In re Port Huron Broadcasting Co. (WHLS), 12 F.C.C. 1069, 1071 (1948).)

7. Q. If a station offers free time to opposing candidates and one candidate declines to use the time given him, are other candidates for that office foreclosed from availing themselves of the offer?

A. No. The refusal of one candidate does not foreclose other candidates wishing to use the time offered. However, whether the candidate initially declining the offer could later avail himself of "equal opportunities" would depend on all the facts and circumstances. (Letter to section 315 Requirements, 40 F.C.C. 272 (1956); compare letter to Senate Committee on Commerce, 40 F.C.C. 357 (1962); cf. letter to Station WBTW-TV, 5 F.C.C. 2d 479 (1966); Q. and A. VI.A.13, infra; cf. In re Stations KHJ-TV and KABC-TV, 23 F.C.C. 2d 769 (1966); Q. and A. VI.A.14, infra.)

8. Q. If one political candidate buys station facilities more heavily than another, is a station required to call a halt to such sales because of the resulting imbalance?

A. No. Section 315 requires only that all candidates be afforded "equal opportunities" to use the facilities of the station. (Letter to Mrs. M. R. Oliver, 40 F.C.C. 253 (1952); letter to Honorable Frank M. Karsten, 40 F.C.C. 269 (1955).)

9. Q. Can a station contract with the committee of a political party whereby it commits itself in advance of an election to furnish substantial blocks of time to the candidates of that party?

A. Neither section 315 nor the Commission's rules prohibit a licensee from contracting with a party for reservation of time in advance of an election. However, substantial questions as to a possible violation of section 315 would arise if the effect of such prior commitment were to disable a licensee from meeting its "equal opportunities" obligations under section 315. (Letter to Honorable Frank M. Karsten, 40 F.C.C. 269 (1955).)

10. Q. Where a television station had previously offered certain specified time segments during the last week of the campaign to candidate A, who declined the purchase, and then sold the same segments to A's opponent was the station obligated under section 315 to accede to A's subsequent request for particular time periods immediately preceding or following the time segments previously offered to him and refused by him and subsequently sold to his opponent?

A. No. But the time offered to candidate A must be generally comparable. The principal factors considered in this situation were: (a) the total amount of time presently scheduled for each candidate; (b) the time segments presently offered to candidate A; (c) the time segments presently scheduled for candidate A's opponent and previously rejected by candidate A; (d) the time segments now scheduled for candidates for other offices, if any, and previously rejected by candidate A; and (e) the station's possible obligations to other candidates for office. (Telegram to Major General Harry Johnson, 40 F.C.C. 323 (1961).)

11. Q. If a station has a policy of confining political broadcasts to sustaining time, but has so many requests for political time that it cannot handle them all within its sustaining schedule, may it refuse time to a candidate whose opponent has already been granted time, on the basis of its established policy of not canceling commercial programs in favor of political broadcasts?

A. No. The station cannot rely upon its policy if the latter conflicts with the "equal opportunities" requirement of section 315. (In the matter of E. A. Stephens, 11 F.C.C. 61 (1945).)

12. Q. If one candidate has been nominated by Parties A, B, and C, while a second candidate for the same office is nominated only by Party D, how should time be allocated as between the two candidates?

A. Section 315 has reference only to the use of facilities by persons who are candidates for public office and not to the political parties which may have nominated such candidates. Accordingly, if broadcast time is made available for the use of a candidate for public office, the provisions of section 315 require that "equal opportunities" be afforded each person who is a candidate for the same office, without regard to the number of nominations that any particular candidate may have. (Letters to Greater New York Broadcasting Corp., 40 F.C.C. 235 (1946); to Lar Daly, 40 F.C.C. 302 (1959).)

*13. Q. Licensee intended to devote a substantial block of time on a sustaining basis to legally qualified candidates for various public offices, but desired that all candidates avail themselves of the opportunity to appear on the chosen date only. It proposed to require a waiver from each candidate who accepted the invitation to appear that, if subsequent events forced the candidate to not appear at the chosen date, he forfeited his right to appear at a later date. It also intended to request of those candidates who could not or did not want to appear at the specified date a waiver of their right to appear at a different date. Finally, the licensee wanted to apprise all candidates that if any one of them refused to sign such a waiver, the licensee would be forced to rescind all invitations to candidates for that particular office, whether already accepted or not, and notify all other candidates for that office of the reason for cancellation. Would all of these plans of the licensee be generally valid and consistent with requirements under section 315?

A. Yes, as a general matter. If the licensee has made a good faith, reasonable judgment that his area's interests would be best served by all legally qualified candidates appearing on a particular program, he may make the offer of free time contingent on all candidates agreeing to appear or to waive their right to equal opportunities. As a general matter the waiver would be binding, but because this letter is based on uncertain future events, circumstances might arise which would alter this conclusion. However, the candidate who does not sign the waiver and rejects the offer is exercising rights expressly bestowed upon him by Congress. Therefore, it would be inappropriate for the licensee to impute blame or indicate that the candidate was acting improperly in so doing. Likewise, it would be wrong to use the threat to blame failure of the negotiations on any particular candidate as a lever to dictate the format of the program. (Letters to Station WBTW-TV, 5 F.C.C. 2d 479 (1966); to Senate Committee on Commerce, 40 F.C.C. 357 (1962); see In re Station WOR-TV, 22 F.C.C. 2d 528 (1969).)

*14. Q. When an offer of free time is made by a licensee to legally qualified candidates for a public office and this

*An asterisk denotes a new question and answer.

offer is refused, does this give any rights to opposing candidates for the same office, i.e., can they require that they be afforded free time?

A. No. The "equal opportunities" provision of section 315 becomes applicable only when a licensee permits a legally qualified candidate for public office to actually use its facilities. (In re Stations KHJ-TV and KABC-TV, 23 F.C.C. 2d 767 (1966); cf. Telegram to Socialist Labor Party, 40 F.C.C. 376 (1962); "Legally Qualified Candidate", 40 F.C.C. 233 (1941); Q. and A. VI.A. 5 and 6, supra.)

*15. Q. A station proposed to make its facilities available free of charge to all candidates for the office of Mayor of New York and Governor of New Jersey on the day before the election. The broadcast day would be divided into four segments and each of the seven candidates for governor and seven for mayor would have a 15-minute period within each of the segments. Drawing by lot would determine the order of appearance; each candidate could use his segment as he desired. However, the station would require the candidate to appear personally during each of his four broadcasts. Telephone call-in facilities would be available for any candidate upon request; free helicopter service to and from the studio would be provided each candidate; office facilities would be provided for any candidate who desired it. Any candidate who refused to appear in person or those who did not use all or any part of their free time would not receive substitute time by the station, and their unused time would be used to broadcast "information of interest" to the electorate. The station requested a ruling as to whether this proposal complied with section 315.

A. The Commission stated that while it could not anticipate the basis for all complaints candidates might file alleging violations of section 315 rights, it would offer the licensee guidance. The Commission advised that the proposed program constituted a highly commendable effort to contribute to an informed electorate and appeared to provide a good basis for affording equal opportunities to the candidates. However, insistence that each candidate appear personally at each of his broadcasts might be inconsistent with the provision of section 315. Some candidates might prefer to participate by prerecorded videotape or film rather than by the "give and take" of a live appearance, or to devote their last day of campaigning to purposes other than live appearances on the proposed program. (In re WOR-TV, 22 F.C.C. 2d 528 (1969).)

B. COMPARABILITY

VI.B. 1. Q. Is a station's obligation under section 315 met if it offers a candidate the same amount of time an opposing candidate has received, where the time of the day or week afforded the first candidate is superior to that offered his opponent?

A. No. The station in providing "equal opportunities" must consider the desirability of the time segment allotted as

well as its length. And while there is no requirement that a station afford candidate B exactly the same time of day on exactly the same day of the week as candidate A, the time segments offered must be comparable as to desirability. In the matter of E. A. Stephens, 11 F.C.C. 61 (1945); telegram to Major General Harry Johnson, 40 F.C.C. 323 (1961) Q. and A. VI.B.2, infra.)

2. Q. If candidate A has been afforded time during early morning, noon and evening hours, does a station comply with section 315 by offering candidate B time only during early morning and noon periods?

A. No. However, the requirements of comparable time do not require a station to make available exactly the same time periods, nor the periods requested by candidate B. (Letter to D. L. Grace, Esq., 40 F.C.C. 297 (1958).)

3. Q. If a station broadcasts a program sponsored by a commercial advertiser which includes one or more qualified candidates as speakers or guests, what are its obligations with respect to affording "equal opportunities" to other candidates for the same office?

A. If candidates are permitted to appear without cost to themselves, on programs sponsored by commercial advertisers, opposing candidates are entitled to receive comparable time also at no cost. ("Equal Time Requirements," 40 F.C.C. 251 (1952); Telegram to WWIN, 40 F.C.C. 338 (1962); In re Station WAKR, 23 F.C.C. 2d 759 (1970).)

*4. Q. When a station broadcasts an appearance by a candidate which constitutes a use and it is paid for by the political campaign committee of a labor union, is an opposing candidate entitled to comparable free time?

A. No. Where a political committee of an organization such as a labor union purchases time specifically on behalf of a candidate, opposing candidates are not entitled to free time. There is a distinction between this situation and a case where a candidate is permitted to appear on a program which is regularly sponsored. (Telegram to Metromedia, Inc., 40 F.C.C. 426 (1964); compare Q. and A. VI.B.3, supra, and In re Station WAKR, 23 F.C.C. 2d 759 (1970).)

5. Q. Where a candidate for office in a State or local election appears on a national network program, is an opposing candidate for the same office entitled to equal facilities over stations which carried the original program and serve the area in which the election campaign is occurring?

A. Yes. Under such circumstances an opposing candidate would be entitled to time on such stations. (Equal Time Requirements, 40 F.C.C. 251 (1952).)

6. Q. Where a candidate appears on a particular program—such as a regular series of forum programs—are opposing candidates entitled to demand to appear on the same program?

A. Not necessarily. The mechanics of the problem of "equal opportunities" must be left to resolution of the parties. And while factors such as the size of the potential audience because of the appearance of the first candidate on an es-

established or popular program might very well be a matter for consideration by the parties, it cannot be said, in the abstract, that "equal opportunities" could only be provided by giving opposing parties time on the same program. (Letters to Socialist Workers Party, 40 F.C.C. 256 (1952); to Columbia Broadcasting System, Inc., 40 F.C.C. 254 (1952); to Mr. Harry Dermer, 40 F.C.C. 407 (1964).)

7. Q. Where a station asks candidates A and B (opposing candidates in a primary election) to appear on a debate-type program, the format of which is generally acceptable to the candidate, but with no restrictions as to what issues or matters might be discussed, and candidate A accepts the offer and appears on the program and candidate B declines to appear on the program, is candidate B entitled to further "equal opportunities" in the use of the station's facilities within the meaning of section 315 of the act? If so, is any such obligation met by offering candidate B, prior to the primary, an opportunity to appear on a program of comparable format to that on which candidate A appeared, or is the station obligated to grant candidate B time equal to that used by candidate A on the program in question unrestricted as to format?

A. Since the station's format was reasonable in structure and the station put no restrictions on what matters and issues might be discussed by candidate B and others who appeared on the program in question, it offered candidate B "equal opportunities" in the use of its facilities within the meaning of section 315 of the Act. The station's further offer to candidate B, prior to the primary, of its facilities on a "comparable format" was reasonable under the facts of the case, consistent with any continuing obligation to afford candidate B "equal opportunities" in the use of the station which he may have had. (Letter to Honorable Bob Wilson, 40 F.C.C. 300 (1958); but see letter to Senate Committee on Commerce, 40 F.C.C. 357 (1962), Q. and A. VI.B.8, *infra*, which partially superseded this ruling.)

8. Q. A licensee offered broadcast time to all the candidates for a particular office for a joint appearance, the details of which program were determined solely by the licensee. If Candidate "A" rejects the offer and Candidate "B" and/or other candidates accept and appear, would Candidate "A" be entitled to "equal opportunities" because of the appearance of Candidate "B" and/or other candidates on the program previously offered by the licensee to all of the candidates?

A. Yes, provided the request is made by the candidate within the period specified by the rules. The Commission stated that licensees should negotiate with the affected candidates and that where the offer was mutually agreeable to such candidates, "equal opportunities" were being afforded to the candidates. Where the candidate rejected the proposal, however, and other candidates accepted and appeared, the Commission stated: "Where the licensee permits one candidate to use his facilities, section

315 then—simply by virtue of that use—requires the licensee to 'afford equal opportunities to all other such candidates for that office in the use of such broadcasting station.' This obligation may not be avoided by the licensee's unilateral actions in picking a program format, specifying participants other than and in addition to the candidates, setting the length of the program, the time of taping, the time of broadcast, etc., and then offering the package to the candidates on a 'take it or leave it—this is my final offer' basis. For * * * section 315 provides that the station 'shall have no power of censorship over the material broadcast.' (Cf. *In re Port Huron Broadcasting Co. (WHLS)*, 12 F.C.C. 1069 (1948).) Clearly, the 'take it or leave it' basis described above would constitute such prohibited censorship, since it would, in effect, be dictating the very format of the program to the candidate—and thus, an important facet of 'the material broadcast.' We wish to make clear that the Commission is in no way saying that one format is more in the public interest than another. On the contrary, the thrust of our ruling is that the Act bestows upon the candidate the right to choose the format and other similar aspects of 'the material broadcast', with no right of 'censorship' in the licensee." (Letter to Senate Committee on Commerce, 40 F.C.C. 357 (1962); see *In re Licensee Obligations In Political Campaigns*, 14 F.C.C. 2d 765 (1968); *In re Station WOR-TV*, 22 F.C.C. 2d 528 (1969); compare earlier rulings Q.'s and A.'s VI.A.4.7 and VI.B.7, *supra*; cf. *Farmers Educational and Co-operative Union of America, North Dakota Division v. WDAY, Inc.*, 360 U.S. 525 (1959).)

9. Q. In affording "equal opportunities", may a station limit the use of its facilities solely to the use of a microphone?

A. A station must treat opposing candidates the same with respect to the use of its facilities and if it permits one candidate to use facilities over and beyond the microphone, it must permit a similar usage by other qualified candidates. (Letter to D. L. Grace, Esq., 40 F.C.C. 297 (1958).)

*10. Q. (See Q. and A. III.B.17, *supra*, for additional facts.) A station developed a policy that advertisements for candidates for local offices in an election would be shown before 6 p.m., while those of candidates for national offices would be shown after 6 p.m. On a film clip used by a candidate for a national office shown after 6 p.m., there were scenes of the national candidate talking with a group of students, one of whom later becomes a legally qualified candidate for a local public office. Can legally qualified opponents of this "student"—candidate for local public office demand and receive broadcast time after 6 p.m.?

A. Yes. Although the station's policy of not affording time to candidates for local offices after 6 p.m., if uniformly

*An asterisk denotes a new question and answer.

applied, seemed reasonable, if, as here, the licensee permitted a use of the station's facilities by a legally qualified candidate for a local public office after 6 p.m., it must afford comparable time periods to all opposing legally qualified candidates for the same local public office. (*In re Station KRIV*, 23 F.C.C. 2d 778 (1966).)

*11. Q. Two out of four candidates of the same party in a primary election were given free time by a television station for a one-half hour face-to-face debate. The other two candidates were offered free time in comparable time segments to engage in a one-half hour debate or to talk in separate 15-minute programs. The two candidates not in the original debate protested to the Commission and stated that all four should be included in the debate because a debate format was more effective, the original two debaters were publicized as "front runners" and the original debate had been well-publicized so it was certain to draw a large audience. Was the equal opportunity requirement met by this station licensee when it did not grant this demand?

A. Yes. The station fulfilled the requirements of the equal opportunity provisions when it offered all candidates equal amounts of time free of charge in comparable time periods. (*In re Messrs. William F. Ryan and Paul O'Dwyer*, 14 F.C.C. 2d 633 (1968); *In re Constitutional Party and Frank W. Gaydosh*, 14 F.C.C. 2d 255 (1968), petition to review denied, 14 F.C.C. 2d 861 (1968), in which the Commission stated that "[e]qual time right under section 315 of the Communications Act does not include right to appear on same program with other candidates since station licensee cannot compel political candidates to appear on same program with you." (*In re Conservative Party*, 40 F.C.C. 1086 (1962).)

*12. Q. It was arranged that approximately the first hour of a debate between two legally qualified candidates could be videotaped by licensee A. Licensee B arranged to have a copy of the tape made for broadcast of the one hour program at 10:30 p.m. that night. At 5 p.m., licensee B discovered that because of the failure of licensee A's videotape machine, the video portion of the last 2 minutes and 50 seconds of the closing remarks of candidate C were lost, but the audio portion was unaffected. Licensee B substituted a still picture of candidate C during its broadcasting of the defective video portion of the tape. During the presentation of this still picture image, the video image became defective and a slide which read "technical difficulties" was flashed on the screen. Candidate C requested that he be permitted to rebroadcast the portion of the tape which was not shown over the facilities of licensee B. Under the requirements of section 315, can candidate C require that licensee B rebroadcast the defective portion of the tape and to also permit candidate C to repeat what was said on the defective portion of the tape?

A. No. Because the audio portion of candidate C's remarks was broadcast

without interruption and licensee B appeared to have made a reasonable effort to remedy the defective video portion. Licensee B substantially complied with the requirements of section 315. (In re Senator Birch Bayh, 15 F.C.C. 2d 47 (1968).)

VII. What Limitations Can Be Put on the Use of Facilities by a Candidate?

VII. 1. Q. May a station delete material in a broadcast under section 315 because it believes the material contained therein is or may be libelous?

A. No. Any such action would entail censorship which is expressly prohibited by section 315 of the Communications Act. (In re Port Huron Broadcasting Co. (WHLS), 12 F.C.C. 1069 (1948); In the matter of WDSU Broadcasting Corporation, 16 F.C.C. 345 (1951); see Q. and A. VII.2, *infra*.)

2. Q. If a legally qualified candidate broadcasts libelous or slanderous remarks, is the station liable therefor?

A. In Port Huron Broadcasting Co., 12 F.C.C. 1069 (1948), the Commission expressed an opinion that licensees not directly participating in the libel might be absolved from any liability they might otherwise incur under State law, because of the operation of section 315, which precludes them from preventing a candidate's utterances. In a subsequent case, the Commission's ruling in the Port Huron case was, in effect, affirmed, the Supreme Court holding that since a licensee could not censor a broadcast under section 315, Congress could not have intended to compel a station to broadcast libelous statements of a legally qualified candidate and at the same time subject itself to the risk of damage suits. (Farmers Educational & Cooperative Union of America v. WDAY, Inc., 360 U.S. 525 (1959).)

3. Q. Does the same immunity apply in a case where the Chairman of a political party's campaign committee, not himself a candidate, broadcasts a speech in support of a candidate?

A. No, licensees are not entitled to assert the defense that they are not liable since the speeches could have been censored without violating section 315. Accordingly, they were at fault in permitting such speeches to be broadcast. (Felix v. Westinghouse Radio Stations, 186 F. 2d 1 (C.C.A. 3, 1950), cert. den., 341 U.S. 909; George F. Mahoney, 40 F.C.C. 336 (1962); Q. and A. VII.4, *infra*; but cf. In re Gray Communications Systems, Inc., 14 F.C.C. 2d 766 (1968) and Herald Publishing Company, 14 F.C.C. 2d 767, 768 (1968); reconsideration denied, In the Matter of Gray Communications Systems, Inc., 19 F.C.C. 2d 532, 533 (1969); see In re Station WOR-TV, 22 F.C.C. 2d 528 (1969).)

4. Q. A candidate prepared a 15-minute video tape which contained the opinions of several private citizens with respect to an issue pertinent to the pending election. If the station broadcast such program in which the candidate did not appear, would the immunity afforded licensees by section 315 from liability for

the broadcast of libelous or slanderous remarks by candidates be applicable?

A. No. The provision of section 315 prohibiting censorship by a licensee over material broadcast pursuant to section 315 applies only to broadcasts by candidates themselves. Section 315, therefore, is not a defense to an action for libel or slander arising out of broadcasts by non-candidates speaking in behalf of another's candidacy. Since section 315 does not prohibit the licensee from censoring such a broadcast, the licensee is not entitled to the protection of section 315. (George F. Mahoney, 40 F.C.C. 336 (1962); but cf. In re Gray Communications System, Inc., 14 F.C.C. 2d 766 (1968) and Herald Publishing Company, 14 F.C.C. 2d 767 (1968); reconsideration denied, In the Matter of Gray Communications System, Inc., 19 F.C.C. 2d 532, 534 (1969); Q. and A. VII.5, *infra*; cf. In re Station WOR-TV, 22 F.C.C. 2d 528 (1969).)

5. Q. If a candidate secures time under section 315, must he talk about a subject directly related to his candidacy?

A. No. The candidate may use the time as he deems best. To deny a person time on the ground that he was not using it in furtherance of his candidacy would be an exercise of censorship prohibited by section 315. (Socialist Labor Party of America, 40 F.C.C. 241 (1952).)

6. Q. If a station makes time available to an office holder who is also a legally qualified candidate for reelection and the office holder limits his talks to non-partisan and informative material, may other legally qualified candidates who obtain time be limited to the same subjects or the same type of broadcast?

A. No. Other qualified candidates may use the facilities as they deem best in their own interest. (Legally Qualified Candidate, 40 F.C.C. 246 (1952).)

7. Q. May a licensee, as a condition to allowing a candidate the use of its broadcast facilities, require the candidate to submit an advance script of his program?

A. Section 315 expressly provides that licensees "shall have no power of censorship over the material broadcast under the provisions of this section." The licensee may request submission of an advance script, to aid in its presentation of the program (e.g., suggestions as to the amount of time needed to deliver the script). But any requirement of an advance script from a candidate violates section 315. A licensee could not condition permission to broadcast upon receipt of an advance script, because "the Act bestows upon the candidate the right to choose the format and other similar aspects of 'the material broadcast', with no right of 'censorship in the licensee.'" (See letter to Senate Committee on Commerce, 40 F.C.C. 357 (1962); see also Farmers Educational and Cooperative Union of America, North Dakota Division v. WDAY, Inc., 360 U.S. 525 (1959).)

8. Q. Where a candidate desires to record his proposed broadcast, may a station require him to make the recording at his own expense?

A. Yes. Provided that the procedures adopted are applied without discrimination between candidates for the same office and no censorship is attempted. (Legally Qualified Candidate, 40 F.C.C. 249 (1952).)

*9. Q. The complainant made an agreement with a licensee that the complainant would receive equal opportunities free because of the appearance of an opposing candidate for public office. The complainant desired to have some high-school students sing and entertain on the program he would broadcast under his equal opportunity rights. During the program, he also wanted to have the keys to a car be presented to the winner of the automobile by a member of a merchant's association. Does section 315 prohibit the licensee from restricting the appearance of other persons with the complainant during the time allocated because of a prior appearance by an opposing candidate, and if any of these persons thus appearing utter libelous statements, does 315 guarantee immunity to the licensee from civil action based on these utterances?

A. Yes to both questions. The complainant intended to appear throughout the program and to participate in it. He planned to use the entertainment to supplement the program and he would introduce the entertainment, interview the people involved and thank them for appearing with him. If the candidate in his contemplated "use" proposed merely to substitute others for himself, without appearing to a substantial degree on the program himself, then the program would not in fact be a "use." But this is not the case here and thus this program falls within the protection of section 315, and, as required by that section, the licensee cannot censor the program in any manner. Therefore, the licensee would not be liable for libelous statements made by persons appearing with the candidate on his broadcast under the reasoning of Farmers Educational and Cooperative Union of America, North Dakota Division v. WDAY, Inc., 360 U.S. 525 (1959). In re Gray Communications Systems, Inc., 14 F.C.C. 2d 766 (1968); Herald Publishing Company, 14 F.C.C. 2d 767 (1968); reconsideration denied in In the Matter of Gray Communications System, Inc., 19 F.C.C. 2d 532, 534 (1969), there the Commission stated, "[i]n general, we believe that where a candidate's personal appearance, either vocal or visual, is the focus of the program presented, the program constitutes a section 315 'use' and the station is prohibited from censoring the candidate's choice of program material. This general rule is framed for circumstances where the candidate's personal appearance(s) is substantial in length, integrally involved in the program, and indeed the focus of the program, and where the program is under the control and direction of the candidate." (In the Matter of Gray Communications System, Inc., 19 F.C.C. 2d 532, 534 (1969); cf. In re Station WOR-TV, 22 F.C.C. 2d 528 (1969); see Capitol

*An asterisk denotes a new question and answer.

Broadcasting Co., Inc., 8 F.C.C. 2d 975 (1967); but see Q. and A.'s VII. 3 and 4, supra.)

*10. Q. During a broadcast, a legally qualified candidate made a personal attack in the course of a discussion of a controversial issue of public importance on two people who didn't fit within the exception to the personal attack rules, because they were neither candidates, their authorized spokesmen, nor persons associated with candidates in the campaign. The licensee contended that the Commission should consider waiving, amending or holding the personal attack rules inapplicable to situations like this. Was the licensee required to comply with all the requirements of the personal attack rules in these circumstances?

A. Yes. The public interest reasons supporting the personal attack rule were not outweighed by the consideration that the licensee could not censor the broadcast of the candidate who made the attack. The Commission stated that situations such as this one do not appear to arise frequently and there is no showing or indication that application of the personal attack obligations to political broadcasts (with the important exemption in subsection (b) of the personal attack rules) had discouraged licensees from carrying such broadcasts. Moreover, the licensee's reliance on *Fairness Education and Cooperative Union of America v. WDAY, Inc.*, 360 U.S. 525 (1969) was inapposite because the obligation to notify a person that has been attacked and to send him a copy of the attack and an offer of an opportunity to reply was not comparable to the possible liability for large sums of money which may result from civil action based on the broadcast of defamatory remarks. No penalty was involved. The licensee, in its discharge of its obligation to serve the public interest, is generally called upon to afford a reasonable amount of time to the coverage of controversial issues of public importance, including political broadcasts, and, if on such broadcasts, nonexempt personal attacks occur, all the licensee is required to do is give notification and afford a reasonable opportunity for the person attacked to present his side of the attack issue, so that the electorate may be fully and fairly informed. (*Capital Cities Broadcasting Corp.*, 13 F.C.C. 2d 869 (1968); see Commission rules 47 C.F.R. §§ 73.123, 73.300, 73.598, 73.679, and 74.1115 (1970).)

11. Q. A legally qualified candidate allegedly was personally attacked under the fairness doctrine during broadcasts by a licensee. The licensee allegedly also broadcast editorials supporting another candidate. The licensee asked the Commission whether, if the candidate himself was given time to reply personally to the attacks and the editorials, the opponents of this candidate would be entitled to equal opportunities as a result of the broadcast?

A. Yes. If a licensee in its discretion, permits the candidate personally to

broadcast the reply, this would give rise to a right to equal opportunities for all opposing legally qualified candidates for the same office. (*Times-Mirror Broadcasting Company*, 40 F.C.C. 531, 532 (1962); 40 F.C.C. 538, 539-540 (1962); see *Personal Attack and Political Editorializing Rules*, 8 F.C.C. 2d 721, 727 (1967); 47 C.F.R. §§ 73.123, 73.300, 73.598, 73.679, and 74.1115 (1970).)

VIII. What Rates Can Be Charged Candidates for Programs Under Section 315?

VIII. 1. Q. May a station charge premium rates for political broadcasts?

A. No. Section 315, as amended, provides that the charges made for the use of a station by a candidate "shall not exceed the charges made for comparable use of such stations for other purposes." (See *Noe Enterprises, Inc.*, 40 F.C.C. 388 (1964).)

2. Q. Does the requirement that the charges to a candidate "shall not exceed the charges for comparable use" of a station for other purposes apply to political broadcasts by persons other than qualified candidates?

A. No. This requirement applies only to candidates for public office. Hence, a station may adopt whatever policy it desires for political broadcasts by organizations or persons who are not candidates for office, consistent with its obligation to operate in the public interest. (*Political Broadcast Rates*, 40 F.C.C. 265 (1955).)

3. Q. May a station with both "national" and "local" rates charge a candidate for local office its "national" rate?

A. No. Under §§ 73.120, 73.290, 73.657 and 74.1113 of the Commission's rules a station may not charge a candidate more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that within which persons may vote for the particular office for which such person is a candidate. (See letter to Mr. Waldo E. Spence, 40 F.C.C. 392 (1964).)

4. Q. Considering the limited geographical area which a member of the House of Representatives serves, must candidates for the House be charged the "local" instead of the "national" rate?

A. This question cannot be answered categorically. To determine the maximum rates which could be charged under section 315, the Commission would have to know the criteria a station uses in classifying "local" versus "national" advertisers before it could determine what are "comparable charges." In making this determination, the Commission does not prescribe rates but merely requires equality of treatment as between 315 broadcasts and commercial advertising. (*Political Broadcast Rates*, 40 F.C.C. 286 (1957).)

5. Q. Is a political candidate entitled to receive discounts?

A. Yes. Under §§ 73.120, 73.290, 73.657 and new rules in 74.1113 of the Commission's rules political candidates are entitled to the same discounts that would

be accorded persons other than candidates for public office under the conditions specified, as well as to such special discounts for programs coming within section 315 as the station may choose to give on a nondiscriminatory basis. (Letter to Mr. Waldo E. Spence, 40 F.C.C. 392 (1964).)

6. Q. Can a station refuse to sell time at discount rates to a group of candidates for different offices who have pooled their resources to obtain a discount, even though as a matter of commercial practice, the station permits commercial advertisers to buy a block of time at discount rates for use by various businesses owned by them?

A. Yes, section 315 imposes no obligation on a station to allow the use of its facilities by candidates, and neither that section nor the Commission's rules require a station to sell time to a group of candidates on a pooled basis, even though such may be the practice with respect to commercial advertisers. (*Political Ad Requirements*, 40 F.C.C. 263 (1954); Letter to Mr. Waldo E. Spence, 40 F.C.C. 392 (1964); see *Political Broadcast Rates*, 40 F.C.C. 1075 (1954); Q. and A. VI.A.5, supra; but see caveat in Q. and A. VI.A.6, supra.)

7. Q. If candidate A purchases 10 time segments over a station which offers a discount rate for purchase of that amount of time, is candidate B entitled to the discount rate if he purchases less time than the minimum to which discounts are applicable?

A. No. A station is under such circumstances only required to make available the discount privileges to each legally qualified candidate on the same basis. (See "Equal Time Requirements," 40 F.C.C. 261 (1954).)

8. Q. If a station has a "spot" rate of 2 dollars per "spot" announcement, with a rate reduction to 1 dollar if 100 or more such "spots" are purchased on a bulk time sales contract, and if one candidate arranges with an advertiser having such a bulk time contract to utilize five of these spots at the 1 dollar rate, is the station obligated to sell the candidates of other parties for the same office time at the same 1 dollar rate?

A. Yes. Other legally qualified candidates are entitled to take advantage of the same reduced rate. (*Political Ad Requirements*, 40 F.C.C. 252 (1952).)

9. Q. Where a group of candidates for different offices pool their resources to purchase a block of time at a discount, and an individual candidate opposing one of the group seeks time on the station, to what rate is he entitled?

A. He is entitled to be charged the same rate as his opponent since the provisions of section 315 run to the candidates themselves and they are entitled to be treated equally with their individual opponents. (*Political Broadcast Rates*, 40 F.C.C. 1075 (1954); see also Q. and A. VI.B.3 supra.)

10. Q. Is there any prohibition against the purchase by a political party of a block of time for several of its candidates, for allocation among such candidates on the basis of personal need,

*An asterisk denotes a new question and answer.

rather than on the amount each candidate has contributed to the party's campaign fund?

A. There is no prohibition in section 315 or the Commission's rules against the above practices. It would be reasonable to assume that the group time used by a candidate is, for the purposes of section 315, time paid for by the candidate through the normal device of a recognized political campaign committee, even though part of the campaign funds was derived from sources other than the candidates' contributions. ("Equal Time Requirements," 40 F.C.C. 261 (1954); letter to Mr. Lar Daly, 40 F.C.C. 377 (1963).)

11. Q. When a candidate and his immediate family own all the stock in a corporate licensee and the candidate is the president and general manager, can he pay for time to the corporate licensee from which he derives his income and have the licensee make a similar charge to an opposing candidate?

A. Yes. The fact that a candidate has a financial interest in a corporate licensee does not affect the licensee's obligation under section 315. Thus, the rates which the licensee may charge to other legally qualified candidates will be governed by the rate which the stockholder candidate actually pays to the licensee. If no charge is made to the stockholder candidate, it follows that other legally qualified candidates are entitled to equal time without charge. (Letter to WKO, 40 F.C.C. 288 (1957).)

12. Q. A station adopted and maintained a policy under which commissions were not paid to advertising agencies in connection with political advertising although it did pay such commissions in connection with commercial advertising. Further, in the case of commercial advertisers who did not use advertising agencies, the station performed those functions which the advertising agency would normally perform, but in the case of political advertisers, the station performed no such services. An agency which had placed political advertising over the station in a recent election made a demand of the station for payment of the agency commission. Was the station's policy consistent with section 315 of the Communications Act?

A. No. The Commission held that such a policy violated both section 315(b) of the Act and § 73.120(c) of the rules; that the benefits accruing to a candidate from the use of an advertising agency were neither remote, intangible nor insubstantial; and that while under the station's policy, a commercial advertiser would, in addition to broadcast time, receive the services of an advertising agency merely by paying the station's established card rate, the political advertiser, in return for payment of the same card rate, would receive only broadcast time. The Commission held that such a resultant inequality in treatment vis-à-vis commercial advertisers is clearly prohibited by the Act and the rules. (Noe Enterprises, Inc., 40 F.C.C. 388 (1964); compare letter to KTRM, 40 F.C.C. 331 (1962), and Q. and A. VIII.19, infra.)

*13. Q. The Commission received a complaint on behalf of a member of the Pennsylvania House of Representatives running for reelection claiming that a local station was charging him more for his political spot announcements than it had charged him for commercial announcements on behalf of his business in the past. The station stated that the rates normally charged to the complainant for his commercial spot announcements on behalf of his business were based on an existing contract between the station and the complainant which had been entered into 8 years previously. The provisions of the contract had apparently been renewed with unchanged rates and the rates set at the time the contract was entered into were less than the present rates the local station charged to other commercial advertisers. The rates being charged to the complainant for his political announcements were the same rates the station currently charged to other commercial advertisers for a comparable use of the station's facilities. Under these circumstances is the station acting in compliance with the provisions of section 315(b) of the Communications Act and of the Commission's rules?

A. Yes. If the station were to allow the complainant to purchase political spot announcements at the rates charged to him for his commercial spot announcements, then the station would either be giving him treatment preferential to that given to his opponents or it would have to charge all candidates this lesser rate. This was not the intent of either section 315(b) of the Communications Act or the Commission's rules. In charging the complainant the rate for a political advertisement that was normally charged other commercial advertisers for a comparable use, the station was acting in compliance with both the Act and the rules. (Letter to Honorable J. Irving Whalley, 40 F.C.C. 428 (1964).)

*14. Q. The Commission received a complaint alleging that several stations were charging the national rate to a candidate for election to Congress but were charging a candidate for local office a local rate which was less than the national rate. The stations informed the Commission that this classification of national as against local rates for political broadcast purposes paralleled their commercial rate policy which provided that the local retail rate was applicable only to strictly local concerns whose products or services were confined to the immediate metropolitan area and that all other advertisers taking advantage of the station circulation and coverage outside and beyond the metropolitan area must pay the general or national rate. Is the stations' practice with respect to rates charged to political candidates consistent with the Act and the Commission rules?

A. Yes. The stations' action was not inconsistent with either the Act or its rules, since the rates charged to candi-

*An asterisk denotes a new question and answer.

dates (both for the local office and Congress) were the same as the rates charged to commercial advertisers whose advertising was directed to promoting their businesses within the same area as that encompassed by the political office for which such person is a candidate. (Letter to Mr. Waldo E. Spence, 40 F.C.C. 392 (1964).)

*15. Q. Five days prior to the election, a licensee changed its policy of not selling 30-minute program time to political candidates and offered them 30-minute programs. One candidate's representative complained to the Commission that the licensee had previously refused the candidate's earlier request for half-hour program and so the candidate had not produced any program of that length. Claiming that the production of an effective half-hour program so late in the campaign was impossible, he contended that the licensee should charge the candidate a proportionally reduced rate for the 5-minute programs which the representative had on hand. Is this required by section 315?

A. No. Neither the statute nor the rules require the sale of 5-minute periods to complainant at a rate lower than the licensee would charge if the candidate were a commercial advertiser. (In re Complaint by William V. Rawlings, 18 F.C.C. 2d 746 (1969).)

*16. Q. A licensee made "packages" of "run of schedule" (hereinafter ROS) spot announcements available to commercial advertisers at a reduced rate. These ROS spots were carried at the convenience and discretion of the licensee and were subject to preemption by a fixed position commercial. The licensee refused to sell ROS spots to candidates because it contended that if one candidate fortuitously had his ROS spots broadcast in prime time, his opponents could demand that their ROS spots also be broadcast in prime time and this would result in some candidates obtaining fixed rate spots at ROS spot prices. Was the licensee's refusal to sell ROS spots to candidates consistent with section 315 and the Commission's rules?

A. No. Since the licensee sells spots to political candidates and makes packages of ROS spots (discount privileges within the meaning of § 73.120(c)(1) of the rules) available to its commercial advertisers, it must make ROS spots available to political candidates on the same basis. However, if one candidate purchases ROS spots which are broadcast, equal opportunity does not require that the licensee sell his opponents fixed position spots for the same time periods at ROS spot rates. Equal opportunity requires that other candidates be permitted the opportunity to buy an equivalent number of ROS spots at the same price and on the same conditions as the first candidate, or that they be afforded comparable time periods to those actually used by the first candidate at the prescribed rates for such time periods. If ROS spots were chosen by the other candidates the licensee would be required to act in good faith and scrupulously follow normal procedures in the allotment

of these ROS spots. (In re WFBG, 23 F.C.C. 2d 760 (1967); see the Commission's rules, 47 CFR, §§ 73.120(c)(1), 73.290(c)(1), 73.657(c)(1), and 74.1113(b)(1) (1970); Q. and A. VIII.6, supra.)

*17. Q. A licensee informed the Commission that it sold both preemptible and nonpreemptible spot announcements to commercial advertisers on time available basis and the purchase orders specify the times of their broadcast. However, nonpreemptible spot purchasers can select any time previously scheduled for preemptible time spots in addition to other available times. If the preemptible spots were subsequently preempted no charge was made for them. The licensee did not sell preemptible spots to candidates because it reasoned that if one candidate for public office purchased preemptible spot announcements and they were actually used by him; equal opportunity would require that his opponent be permitted to buy spots at preemptible spot prices and have them broadcast when scheduled regardless of whether or not a purchaser of nonpreemptible spots requested that availability. Could the licensee refuse to sell preemptible spot announcements to political candidates?

A. No. If the licensee sells both preemptible and nonpreemptible spot announcements to commercial advertisers it must make them both available to political candidates at the same rates charged commercial advertisers. However, section 315(b) of the Communications Act does not require the sale of nonpreemptible spots at preemptible spot rates. If one political candidate buys preemptible spots and they are broadcast, his opponents are entitled to buy preemptible or nonpreemptible spots. If the opponents desire to make certain that their spots will be broadcast, nonpreemptible spots at nonpreemptible rates should be made available to them. But if the opponents buy preemptible spots and they are preempted by nonpreemptible spots, these opponents are then entitled to buy this same number of spots equal to those broadcast by the first candidate but now they must pay the higher nonpreemptible rates. (Letter to WHDH, Inc., 23 F.C.C. 2d 763 (1967); compare Q. and A. VIII.6, supra.)

*18. Q. Two Democratic candidates and four Republican candidates were running in a special election for a Congressional House seat. A committee for one candidate purchased one-half hour of television time. The candidate then offered to debate the alleged principal opponent of the other party who agreed to debate if all of the other candidates were also invited to debate. All then were invited, and a second debate was held with the one other candidate who accepted which was also paid for by the committee for the candidate who first offered to debate. Would the other candidates not participating in the debates be entitled to free time because of their opponents' appearances?

*An asterisk denotes a new question and answer.

A. No. Under the above facts, the other candidates would be entitled to equal opportunities, but only on a paid basis. (In re Station KTVU-TV, 23 F.C.C. 2d 757 (1967).)

*19. Q. A political candidate purchased time through an advertising public relations agency which he heads. Since he shares in the profit, would the 15-percent agency commission be a "rebate" and thereby become a violation of section 315?

A. No. There is no Commission rule or regulation which would prevent or forbid a political candidate from using the services of his own advertising agency. (Political Broadcast Rates, 23 F.C.C. 2d 770 (1966).)

*20. Q. A licensee adopted and has consistently maintained a policy whereby agency commissions were not paid in connection with political advertising placed by recognized advertising agencies on behalf of a candidate for local office. It adopted and has consistently maintained a similar policy with respect to agency commission in connection with local commercial advertising. The stations most recent local retail rate card indicates that its established policy is " * * * all rates net to station." Therefore, a candidate who utilized an advertising agency would pay the same station rate as one who did not, but the advertising agency would charge its client-candidate the station rate plus 15-percent agency commission. Is this policy consistent with the mandates of section 315 of the Act and the rules?

A. Yes. Because the station's rate policy is applicable to both commercial and political advertising, such policy does not contravene section 315 of the Act nor the rules. (In re KSEE, 23 F.C.C. 2d 762 (1968).)

*21. Q. A station increased in advertising rates 30 percent on August 1. Some legally qualified candidates had purchased time before the rate change for use in the month of August. If their opposing legally qualified candidates request "equal opportunities" based on the use of this time, can they be charged the increased rate for time?

A. No. The rate charged these opposing candidates must be the rate charged their political opponents. Therefore, they should pay the rate in effect before the price change.

IX. Period Within Which Request Must Be Made⁵

IX. 1. Q. When must a candidate make a request of the station for opportunities equal to those afforded his opponent?

A. Within 1 week of the day on which the prior use occurred. (Par. (e) of 47 CFR §§ 73.120, 73.290, 73.590, and 73.657 (1970), and 47 CFR § 74.1113(d) (1970); telegram to WWIN, 40 F.C.C. 338 (1962).)

⁵ See footnote 3, supra; substantive amendments were made to the rule so the present form of the rule should be examined in regard to any questions of timing.

2. Q. A U.S. Senator, unopposed candidate in his party's primary had been broadcasting a weekly program entitled "Your Senator Reports". If he becomes opposed in his party's primary, would his opponent be entitled to request "equal opportunities" with respect to all broadcasts of "Your Senator Reports" since the time the incumbent announced his candidacy?

A. No. A legally qualified candidate announcing his candidacy for the above nomination would be required to request "equal opportunities" concerning a particular broadcast of "Your Senator Reports" not later than 1 week after the date of such broadcast. Thus, any of the incumbent's opponents for the nomination who first announced his candidacy on a particular day, would not be in a position to request "equal opportunities" with respect to any showing of "Your Senator Reports" which was broadcast more than 1 week prior to the date of such announcement. (Letter to Honorable Joseph S. Clark, 40 F.C.C. 332 (1962).)

3. Q. A candidate for U.S. Senator in the Democratic primary, who was also the part owner and president of AM and FM stations in the State, wrote to his opponent, the incumbent Senator, and stated, in substance, that he was using a certain amount of time daily on his stations and that the incumbent was "entitled to equal time, at no charge" and was urged to take advantage of the time. A couple of weeks later, the incumbent, by letter, thanked the station owner for advising him "of the accumulation of time" on each station and stated that the station owner would be notified when incumbent decided to start using the accumulated time. The station owner did not respond to the incumbent's letter. About 6 weeks later, incumbent requested equal opportunities. Were the stations correct in advising incumbent that the Commission's 7-day rule was applicable, thereby precluding requests for "equal opportunities" for any broadcasts prior to 7 days before the request?

A. No. The Commission stressed that where, as here, the licensee, or a principal of the licensee, was also the candidate, there is a special obligation upon the licensee to insure fair dealings in such circumstances and held that the licensee was estopped in the circumstances from relying upon the 7-day rule. The Commission held that the incumbent's letter reasonably constituted a notification as required under the rules; that the licensee knew that equal opportunities were requested; and that he could have made, if he wished, reasonable scheduling plans. (Letters to Mr. Emerson Stone, Jr., 40 F.C.C. 385 (1964); In re KTTV-TV, 23 F.C.C. 2d 769 (1966); compare Legally Qualified Candidate, 40 F.C.C. 246 (1952).)

*4. Q. (See Q. and A. VII.9, supra, for additional facts.) The complainant demanded equal opportunity based on appearances by his political opponent. The licensee granted it but put restrictions on the content of the program which was ultimately determined by the

Commission to be unreasonable. Between the time of the original complaint to the Commission and prior to its ruling, complainant's opponent appeared on additional programs, but complainant didn't request equal opportunities within 7 days of each appearance. Was the licensee correct in refusing to grant equal opportunity based on these appearances because complainant didn't comply with the 7-day rule?

A. No. The complainant was within his rights in refusing to appear on the program on which the licensee placed restrictions subsequently adjudged unreasonable. He was entitled to use of the facilities as he had proposed. The filing of the complaint apprised the licensee that if the complainant prevailed, he would be entitled to the time requested. Thus, after consideration of all the circumstances of the case, the Commission decided that complainant was entitled to "equal opportunities" based on all the appearances of his opponent. (In re Gray Communications System, Inc., 14 F.C.C. 2d 766, 767 (1968); Herald Publishing Co., 14 F.C.C. 2d 767 (1968); reconsideration denied in In the Matter of Gray Communications System, Inc., 19 F.C.C. 2d 532 (1969); Q. and A. VII.9, supra.)

* 5. Q. Four days prior to an announced broadcast use by a political candidate, one of the candidate's opponents for the same office requested time based on that specific future use. The station denied the request because the opponent had not asked for equal opportunities within 1 week after the day on which the prior use occurred. Had the opposing candidate complied with the 7-day rule with his request made prior to the broadcast?

A. Yes. The Commission has always considered as valid and appropriate an equal opportunities request made prior to a section 315 broadcast if the request is based on a specific future use which was known or announced prior to the actual broadcast. (Socialist Workers

*An asterisk denotes a new question and answer.

Party, 15 F.C.C. 2d 96 (1968); other aspects of this ruling are now governed by the revised 7-day rule, 35 F.R. 7118 (1970).)

* 6. Q. A, B, and C were all legally qualified candidates for the same public office as of August 29. A approached licensee for use of broadcast time over licensee's station and was afforded time on September 1. B requested equal time to respond to A's use on September 5, and C made a similar request on September 10, claiming his request to be timely made within 7 days of B's request. The licensee granted B's request but not C's. D became a legally qualified candidate for the same public office on October 10. On October 15, B was afforded time on licensee's station in compliance with his earlier request. The next day, October 16, D requested equal time to respond, which request was promptly rejected by the licensee, stating that the request was too late coming more than 7 days after A's first prior use. Both C and D appealed to the Commission to compel the licensee to afford each of them equal time. Must the licensee grant both requests?

A. The licensee properly refused C's request, that request being made more than 7 days after A's first prior use. There of course is no validity to the claim that the request was within 7 days of B's request for time. The licensee was incorrect in refusing D's request. D, who became a legal candidate after A's first prior use, may properly request equal time within 7 days of a subsequent use, here B's. (47 CFR §§ 74.1113(d), 73.120(e), 73.290(e), 73.590(e), and 73.657(e) (1970); In re Seven-Day Rule, 35 F.R. 7118 (1970); cf. In re Socialist Workers Party, 15 F.C.C. 2d 96 (1968), which was decided before the recent changes in the 7-ray rule; Telegram to Mr. Herbert Steimer, 10 F.C.C. 2d 966 (1962).)

X. Issuance of Interpretations of Section 315 by the Commission

X.1. Q. Under what circumstances will the Commission consider issuing

declaratory orders, interpretive rulings, or advisory opinions with respect to section 315?

A. The Administrative Procedure Act, 80 Stat. 385 (1966), 5 U.S.C. § 554(e) provides that "The agency, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty." However, agencies are not required to issue such orders merely because a request is made therefor. The grant of authority to agencies to issue declaratory orders is limited, and such orders are authorized only with respect to matters which are required by statute to be determined "on the record after opportunity for an agency hearing." (See Attorney General's Manual on the Administrative Procedure Act, pp. 59-60 (1947); 15 ICC Prac. J. 49-50 (February 1948 section II); In re Harry S. Goodman, 12 F.C.C. 678 (1948).) In general, the Commission limits its interpretive rulings or advisory opinions to situations where the critical facts are explicitly stated without the possibility that subsequent events will alter them. It prefers to issue such rulings or opinions where the specific facts of a particular case in controversy are before it for decision. In response to general inquiries, the Commission limits itself to giving general guidelines to help an individual or station determine their rights and obligations under section 315. (WDSU Broadcasting Corp., 40 F.C.C. 295 (1958); Mr. Roy Anderson, 14 F.C.C. 2d 1064 (1968); aff'd. per curiam, Anderson v. Federal Communications Commission, 403 F. 2d 61 (C.C.A. 2, 1968).)

Adopted: August 7, 1970.

FEDERAL COMMUNICATIONS
COMMISSION¹

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-10711; Filed, Aug. 14, 1970;
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¹ Commissioner Cox absent.