



## Rights, Wrongs and Politics

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## FCC Ownership Reporting Change

*Ch-Ch-Ch-Changes!*

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Public Radio Super-Regional 2016



## New Ownership Reporting Requirements - Timing

- **Timing**
  - Single nationwide filing date for Form 323-E
  - Due December 1st of “odd” years – first in 2017 (no longer on renewal anniversary)
  - Data provided as of October 1<sup>st</sup> (working backward, start educating board in 1<sup>st</sup> or 2<sup>nd</sup> Q 2017)
- **Mechanics**
  - Form 323E filed electronically
  - Will require significant manual data input

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## New Ownership Reporting Requirement – Data Required

- For each governing board member (Regent/Trustee/Director) and for each officer (**red = new requirement**):
  - Full name and address
  - Profession or occupation
  - Citizenship
  - **Gender, Ethnicity and Race**
  - Other broadcast interests
  - **FRN or RUFRN**

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## New Ownership Reporting Requirements – FRN/RUFRN

- Each person reported must choose to provide either an FRN or RUFRN
  - **FRN (FCC Registration Number)** requires submission by the person or the station of the person's full SSN
  - **RUFRN (Restricted Use FRN)** requires submission of full name, residence address, date of birth, and last four digits of SSN

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## New Ownership Reporting Requirements – Compliance

- “Recalcitrant Individuals”
  - Station (or licensee) must “instruct” governing board members and officers of obligations and risks of enforcement action for failure to obtain FRN or RUFRN
  - If station uses reasonable and good faith efforts to obtain compliance, station not liable for non-compliance
  - FCC may take enforcement action against “recalcitrant individuals”

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## Key Take Aways on O report changes

- Start early educating/preparing your board
- This might be painful for board members (and for you)
- Start early working on the actual report (i.e., do not wait until Thanksgiving Week to start work on your O report.)

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## Political Broadcasting 102

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The FCC has elaborate rules that affect a political candidate's access to broadcast media, the advertising rates that a station can charge, the disclosures a broadcast station must make and the right of opposing candidates to "equal opportunities." (47 C.F.R. §§ 73. 1940, 1941, 1942, 1943 and 1944). Only some of these rules apply to noncommercial (NCE) stations.

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### WHAT DOESN'T APPLY?

- NCE stations are not required to grant candidates "reasonable access." NCE stations can say "no."
- NCE stations cannot run political ads and are thus not subject to the requirement that ads be available at the station's "lowest unit charge."

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## WHAT DOES APPLY?

- A ban on discriminating between candidates in a station's "practices, regulations, facilities or services."
- A requirement that if one candidate is allowed to "use" the station, opposing candidates must be given "equal opportunities."

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## EXCEPTIONS TO THE DEFINITION OF USE

A "use" is not a "use" when the appearance of the candidate appears in a:

- bona fide newscast
- bona fide news interview program
- bona fide news documentary in which the appearance of the candidate is incidental
- on-the-spot coverage of a bona fide news event.

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## OTHER REQUIREMENTS

- NCE stations are prohibited from airing “issue ads” (sponsored announcements that express a “view” on an issue of public importance or interest).
- NCE stations are prohibited from supporting or opposing political candidates, period.
- IRS rules prohibit 501(c)(3) organizations from directly or indirectly participating in, or intervening in, any political campaign, either in support of or opposition to any candidate for elective political office.

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## CPB Compliance, Certification & Audits

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## Recent Developments

- CPB issued new Non-Compliance Policy
- CPB issued new Certification Guidelines (now called the “Communications Act Compliance” document)
- CPB issued new FY 2017 General Provisions
- CPB changed the certification form

So, It’s All New!



## Common Criticisms

### Bad News:

- Public Media Platform Report: Questioned costs of \$2.4 million in CPB grant funds. **CPB determination reduces the grant amount by \$503,766**
- Non-compliance is still a problem
  - In September, the OIG 10 year summary of OIG compliance audit findings:
    - 47 of the 69 licensees (68%) did not meet one or more of the Act’s requirements. Specifically, the licensees did not:
      - give seven-day advance notice of meetings (14 of 49 licensees, 29%)
      - make financial records available to the public (32 of 69 licensees, 46%)
      - conduct CAB meetings (7 of 39 licensees, 18%)
      - make the CPB EEO information available to the public (11 of 68 licensees, 16%)
      - No findings on donor list and political activities requirements
  - Last autumn, OIG Report on 10 radio stations:
    - 80% noncompliance with Communications Act requirements (open meetings, open financial records, and CABs)
    - 90% noncompliance with web posting (transparency) requirement in the General Provisions
    - 40% noncompliance with discrete accounting requirement
- Forfeitures



## Common Criticisms

### Bad News (Trends in Audits):

- Basic non compliance
- Lack of documentation (both compliance documentation and written policies)
- Questions about costs charged to CPB project grants
  - Inappropriate charges
  - Changes to budgets
  - Lack of documentation
- Questions about in-kind trade contributions
  - Documentation
  - Valuation
- Miscalculation of NFFS



## The (Kind of) Upside

### Good News:

- Two clean audits

### Uncertain News:

- Cascade Public Media “substantially complied” with Act’s requirements



### What is Compliance?

Compliance is not checking a box that you do a list of things

Compliance is also more than doing the things you are required to do

Compliance is the adoption, institutionalization, regularization, and documentation of processes and procedures that fulfill and prove adherence to all requirements



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