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VIA ELECTRONIC MAIL

Robert L. Baker
Assistant Chief, Policy Division
Media Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
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RE: Response of Meredith Corporation
Licensee of Stations KCTV(TV), Kansas City, MO
and KMOV(TV), St. Louis, MO (collectively the "Stations")

Dear Mr. Baker:

This correspondence responds to your letters dated December 17, 2015 instructing Meredith Corporation to respond to the December 10, 2015 complaints filed by the Institute of Public Representation on behalf of Campaign Legal Center, Common Cause, and the Sunlight Foundation (collectively "Sunlight") against the Stations.¹ This letter is timely filed pursuant to an extension of time granted by Gary Schonman, Special Counsel, FCC, on January 6, 2016. Should you have any questions regarding this correspondence, please feel free to contact the undersigned counsel.

Facts

On or about November 19, 2015, Sunlight sent threatening letters to dozens of television stations, including the Stations, claiming that advertisements the stations were airing from the Independence USA PAC did not include proper sponsorship identification disclosures. Even though the argument made in the letters was not based on actual law but rather was based upon what Sunlight wished the Commission's political sponsorship identification rules said, the Stations nevertheless did not ignore the letters. Instead, following standard Meredith company policy regarding any complaint received about a political or issue advertisement, the Stations reached out and requested confirmation from the advertising agency placing the applicable spot that the advertisement contained the appropriate sponsor. The Sunlight letters were received on a Thursday and the KCTV(TV) schedule for the advertisement ended that same day. The schedule for KMOV(TV) ended on Sunday. Even though the schedule was ending, the agency confirmed the sponsor of the advertisement. On Monday, Meredith informed Sunlight that the schedules were over and that the sponsorship identification on the advertisements had been correct. Meredith notes that the

¹ Meredith Corporation received two complaints from Sunlight, one against KCTV(TV) and one against KMOV(TV). As the complaints reference the same advertisement and the same facts, this letter responds to both complaints.

documentation for the schedules was readily available in the Stations' online FCC political public files and that the documentation included the necessary disclosure of the officer of the PAC.²

Even though Meredith could not have taken the action requested by the Sunlight letters, namely that the Stations "identify Michael Bloomberg as the sponsor on all future broadcasts of Independence USA ads, effective immediately" (because the schedules had ended), nevertheless Sunlight then filed complaints with the Federal Communications Commission against 18 different television stations of various owners, including Meredith.³ Each complaint is nearly identical to a complaint that Sunlight filed approximately one year ago and upon which the FCC has yet to rule.⁴ The Complaints against the Stations claimed that the Stations exercised no diligence at all. As the Sunlight Complaints are wrong on the facts and the law, they should be promptly dismissed.

Argument

As evidenced above, the Stations exercised reasonable diligence in questioning the purchaser of the airtime on sponsorship identification.⁵ That fact alone moots almost the entirety of the Complaints. Indeed, the Complaints' statement that the evidence that the advertisement did not include the proper sponsorship identification "was clear, credible, and unrefuted" is incorrect. It was refuted by the advertising agency placing the advertising.

Sunlight argues that stations should proactively change the sponsorship identification on some advertisements even when an advertisement is in compliance with state and federal election law. That Sunlight wishes the FCC's rules would require television stations to "pierce the veil" of an entity registered with the Federal Election Commission (where the donors are easily searched online) or similar state entities does not make it the law. Indeed, one would find it hard to believe that more than a dozen reputable television station owners with experienced communications counsel would all violate a rule at the same time that would require the filing of such complaints. More likely, of course, is that the rule does not say what the complainants want it to say.

As a matter of policy, Meredith does not believe a widespread obligation to pierce the veil would be workable and believes such a requirement fails to comply with statutory or constitutional limitations. Furthermore, as it stands today the Commission has not and cannot require what Sunlight seeks absent a rulemaking proceeding.⁶ Indeed, beyond Administrative Procedure Act requirements,⁷ the Supreme

² Sunlight contends that KCTV(TV) did not have the schedule in its public file. *See* KCTV Complaint at fn 2. This is incorrect. The order came in as coming from a "SuperPac" and the KCTV public file clearly shows that the schedules and associated NAB form were uploaded to the KCTV(TV) public file on November 10. *See* https://stations.fcc.gov/station-profile/kctv/political-files/browse-%3e2015-%3enon-candidate_issue_ads-%3esuperpac.

³ *See* Melissa Yeager, *Sunlight and Allies File Another Round of Complaints Against TV Stations*, SUNLIGHT FOUNDATION (Dec. 10, 2015, 4:12 PM), available at <http://sunlightfoundation.com/blog/2015/12/10/sunlight-and-allies-file-another-round-of-complaints-against-tv-stations/> (the "Complaints").

⁴ *See* Complaint of Campaign Legal Center, Common Cause, and Sunlight Foundation against ABC Owned Television Stations, a subsidiary of The Walt Disney Company (filed Nov. 14, 2014), available at http://www.campaignlegalcenter.org/sites/default/files/WLS_Complaint_Final.pdf.

⁵ Indeed, the Stations met an obligation directly stated on page 2 of the Complaints (*i.e.*, "The statute requires broadcasters, at a minimum, to determine the identity of the sponsor by asking its employees or employees of the advertising agency.")

⁶ *McConnell v. Fed. Election Comm'n*, 540 U.S. 93, 242 (2003) *overruled by* *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310 (2010) (overruled on separate issue).

⁷ Administrative Procedure Act, Pub. L. No. 79-404, 60 Stat. 237 (1946).

Court has made clear that regulated parties are entitled to clarity on rules that may be enforced against them.⁸

Conclusion

Sunlight is free to file a Petition for Rulemaking asking the FCC to adopt rules that require television stations to “pierce the veil” beyond reporting on sponsorship identification confirmed by a purchaser and supported by Federal Election Commission or similar state filings. Meredith, however, believes that such a petition would be ill-founded, given the practical realities of the political process, the deference that the Federal Communications Commission should give to the Federal Election Commission, and the FCC’s limited authority in light of the First Amendment to the U.S. Constitution. At this time, however, there is no basis for the Complaints and they should be summarily dismissed.

Very truly yours,

/s/

Joshua N. Pila

cc: Drew Simshaw
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⁸ F.C.C. v. Fox Television Stations, Inc., __ U.S. __, 132 S. Ct. 2307, 2317 (2012) (citing *Connally v. General Constr. Co.*, 269 U.S. 385, 391 (1926)).