

October 19, 2016



Dear Station Manager:

I am General Counsel to Hillary for America. I write with regard to an advertisement sponsored by Donald J. Trump for President, Inc., titled "Change," that is currently airing on your station. The ad fails to meet the requirements of the Communications Act of 1934.<sup>1</sup> As a result, ***Donald Trump and his campaign committee have forfeited their entitlement to the lowest unit charge for the duration of the campaign.*** From now through Election Day, your station must charge Mr. Trump and his campaign committee the same rate for broadcast time that it charges non-political advertisers for comparable use.

The Communications Act of 1934 entitles a federal candidate receiving the lowest unit charge to air a television advertisement that makes direct reference to another candidate for the same office only if, "at the end of such broadcast there appears simultaneously, *for a period no less than 4 seconds*, a clearly identifiable photographic or similar image of the candidate, and a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate's authorized committee paid for the broadcast." 47 U.S.C. § 315(b)(2)(C) (emphasis added). If a candidate does not comply with this requirement at any time during the sixty days preceding the general election, that candidate "shall not be entitled to receive" the lowest unit charge "for such broadcast or any other broadcast ... that occur on or after the date of such broadcast ..." *Id.* § 315(b)(2)(B).

This requirement is mandated by the Federal Communications Commission ("FCC"). A candidate's campaign must provide written certification to your station at the time of purchase that it will comply with this requirement. *Id.* § 315(b)(2)(E). Failure to comply means that the candidate is not entitled to the lowest unit charge for the advertisement, or any other advertisement, occurring after that point in time.

The purpose of the FCC requirement is to require candidates to demonstrate their support for the statements made in the preceding advertisement. Mr. Trump's advertisement, which makes direct reference to his opponent, Secretary Hillary Clinton, does not meet this requirement. Although the ad concludes with video footage of Mr. Trump and the words "I'm Donald Trump and I approve this message," ***the image of Mr. Trump is not on screen for the last 4 seconds of the broadcast.*** Because the advertisement does not satisfy 47 U.S.C. § 315(b)(2)(C), the advertisement clearly does not satisfy the requirements of the Communications Act of 1934.

As a result of this blatant violation of the Communications Act, Mr. Trump should no longer lawfully benefit from the lowest unit charge. Consequently, for the duration of the current election cycle, your station should refuse to run additional advertisements from Mr. Trump or his campaign committee unless paid at the rate your station charges for comparable use by other non-political advertisers. Continuing to provide Mr. Trump with lowest unit rate would be an impermissible corporate contribution to his campaign.

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<sup>1</sup> The advertisement can be viewed here: <https://youtu.be/XPZmDVZZYKU>.

Please contact me ([melias@hillaryclinton.com](mailto:melias@hillaryclinton.com)) should you have any questions regarding this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Marc E. Elias', with a stylized flourish extending to the right.

Marc E. Elias

General Counsel to Hillary for America