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May 12, 2016

Robert L. Baker  
Assistant Chief, Policy Division  
Media Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554  
Robert.Baker@fcc.gov

Re: Supplement to Complaints Against Eighteen Broadcast Licensees filed December 10, 2015

Dear Mr. Baker:

We write to supplement our December 10, 2015 complaints against eighteen Broadcast Licensees,<sup>1</sup> and request that you address this matter urgently. We seek to call your attention to

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<sup>1</sup> The stations and licensees are Scripps Media, Inc. Stations WXYZ-TV, Detroit, MI and KSHB-TV, Kansas City, MO; Scripps Broadcasting Holdings LLC Station WTMJ-TV, Milwaukee, WI; Graham Media Group Stations WDIV-TV, Detroit, MI and WKMG-TV, Orlando, FL; Television Wisconsin, Inc. Station WISC-TV, Madison, WI; Weigel Broadcasting Co. Station WDJT-TV, Milwaukee, WI; Fox Television Stations LLC Station WOFL(TV), Orlando, FL; New World Communications of Detroit, Inc. Station WJBK(TV), Detroit, MI; Meredith Corporation Stations KMOV(TV), St. Louis, MO and KCTV(TV), Kansas City, MO; Gray Television Licensee, LLC Station WMTV(TV), Madison, WI; WKOW License, LLC Station WKOW(TV), Madison, WI; Hearst Properties, Inc. Stations WESH(TV), Daytona Beach, FL;

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two important studies that establish that television viewers are more likely to be influenced by advertisements when the sponsorship information reflects an unknown, independent group rather than an individual or group identifiable to the viewer.

The complaints alleged that the stations violated Section 317 of the Communications Act because they failed to “fully and fairly disclose the true identity” of sponsors of political advertisements that they aired by disclosing the name of a Super PAC instead of Michael Bloomberg, who is responsible for 100% of the Super PAC’s funding. The following studies demonstrate that these violations harm television viewers’ ability to assess the credibility of political advertisements. As such, these violations must be addressed urgently so that they do not continue to occur during the present and future elections.

First, a study<sup>2</sup> conducted by Deborah Jordan Brooks and Michael Murov in 2012, titled “Assessing Accountability in a Post-Citizens United Era: The Effects of Attack Ad Sponsorship by Unknown Independent Groups” used a test that compared the effect on the viewer of an ad with sponsorship information reflecting an unknown, independent group to that of a source known to the viewer. The study concluded that negative ads with sponsorship information reflecting independent groups unknown to the viewer are more likely to influence them than those that disclosed the candidate as the sponsor.

These results are particularly alarming given the amount of influence television has been found to have over the voting population.<sup>3</sup> A second study,<sup>4</sup> by the Wesleyan Media Project, which built on the 2012 Brooks & Murov study described above, indicated that when the true funders of advertisements are disclosed, the ad’s influence is on par with other ads with sponsorship disclosures of well-known groups and candidates.

Unsurprisingly, the recent growth in independent ad expenditures has been enormous. More and more ads by independent groups are surfacing and influencing the public. According to Sunlight Foundation, Political Action Committees (PACs) are far outspending party and candidate committees this election cycle.<sup>5</sup> Specifically, Super PACs have more receipts than any other groups, with much of the funding coming from wealthy donors.<sup>6</sup> In fact, a recent Washington

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KMBC Hearst Television, Inc. Station KMBC-TV, Kansas City, MO; WISN Hearst Television, Inc. Station WISN-TV, Milwaukee, WI; NBC Telemundo License LLC Station WTVJ, Miami, FL; and Sunbeam Television Corporation Station WSVN(TV), Miami, FL.

<sup>2</sup> Deborah Jordan Brooks & Michael Murov, *Assessing Accountability in a Post—Citizens United Era: The Effects of Attack Ad Sponsorship by Unknown Independent Groups*, 40(3) American Politics Research 383 (2012).

<sup>3</sup> See Toni Fitzgerald, *Study: TV works best for political ads*, Medialife Magazine, Feb. 18, 2016, available at <http://www.medialifemagazine.com/study-tv-works-best-for-political-ads/>.

<sup>4</sup> Travis Ridout, *Sponsorship, Disclosure and Donors: Limiting the Impact of Outside Group Ads*, available at [http://mediaproject.wesleyan.edu/wp-content/uploads/2014/11/interest-groups-experiment-paper\\_31oct14.pdf](http://mediaproject.wesleyan.edu/wp-content/uploads/2014/11/interest-groups-experiment-paper_31oct14.pdf).

<sup>5</sup> See, e.g. <https://sunlightfoundation.com/blog/2015/08/03/outside-groups-influence-on-2016-election-grows-super-pac-filings-show/>.

<sup>6</sup> *Id.*

Post article indicated that forty-one percent of all of the 2016 election funds raised by Super PACs have come from just fifty donors.<sup>7</sup>

Accurate, complete on-air disclosure of sponsorship information promotes transparency and accountability in public advertising. As detailed in the complaints, courts have emphasized that providing the electorate with information about the sources of election-related spending is crucial to democracy. Specifically, the Supreme Court has found that disclosure promotes transparency and accountability in a system where dark money is allowed.<sup>8</sup> When an unknown independent group is disclosed instead of the ad's true sponsor, the viewer is more likely to be influenced by that ad without having had the chance to evaluate the true sponsor's credibility. This is the exact harm that the disclosure laws aim to avoid.

It is the duty of broadcasters to ensure that ads contain accurate on air sponsorship disclosures. As the trustees of the airwaves, they are legally obligated to ensure that the public is not harmed by inadequate disclosures. Because broadcasters serve this important societal role, it is imperative that they fulfill their duties in accordance with Section 317. When broadcasters have easy access to information indicating that the purported sponsor mentioned in an ad that they aired is not the true sponsor of that ad, they have the duty to conduct additional inquiries regarding the ad's sponsorship. These additional inquiries protect the public from the harm identified in the studies.

If the eighteen stations at issue had used due diligence in investigating and disclosing the true identity of the ads' sponsors, this type of harm could have been prevented. Congress delegated the enforcement of Section 317 to the Federal Communications Commission. As such, it is the Commission's duty to ensure that broadcasters are not allowed to harm the public by failing to disclose the true sponsors of advertisements.

Until this issue is addressed, broadcasters will continue to run advertisements with incorrect sponsorship information that have a negative impact on the viewing and voting public. We therefore call upon you to take immediate action to address this matter.

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<sup>7</sup> Matea Gold & Any Narayanswamy, *The new Gilded Age: Close to half of all super-PAC money comes from 50 donors*, Wash. Post, Apr. 15 2016, [https://www.washingtonpost.com/politics/the-new-gilded-age-close-to-half-of-all-super-pac-money-comes-from-50-donors/2016/04/15/63dc363c-01b4-11e6-9d36-33d198ea26c5\\_story.html?utm\\_campaign=Newsletters&utm\\_source=sendgrid&utm\\_medium=email](https://www.washingtonpost.com/politics/the-new-gilded-age-close-to-half-of-all-super-pac-money-comes-from-50-donors/2016/04/15/63dc363c-01b4-11e6-9d36-33d198ea26c5_story.html?utm_campaign=Newsletters&utm_source=sendgrid&utm_medium=email).

<sup>8</sup> See, e.g., *McConnell v. FEC*, 540 U.S. 93, 201 (2003) (finding disclosure requirements that “do not prevent anyone from speaking” and “perform an important function in informing the public” to be constitutional)(internal citations and quotation marks omitted); *Citizens United v. FEC*, 558 U.S. 310, 371 (2010)(“The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.”).

Sincerely,

Caroline Bassett  
Georgetown Law Student

/s/  
Andrew Jay Schwartzman  
Drew Simshaw  
Institute for Public Representation  
*Counsel to Campaign Legal Center,  
Common Cause, and Sunlight Foundation*

cc: Counsel (Certificate of Service attached)

