

## FEDERAL COMMUNICATIONS COMMISSION



## FACT SHEET

September 1997

## CABLE TELEVISION FACT SHEET

## PROGRAM CONTENT REGULATIONS

**Q: Does the FCC regulate the content of cable programming?**

**A:** Cable television system operators generally make their own selection of channels and programs to be distributed to subscribers in response to consumer demands. The Commission does, however, have rules in some areas that are applicable to programming -- called "origination cablecasting" in the rules -- that is subject to the editorial control of the cable system operator. The rules generally do not apply to the contents of broadcast channels or to access channels over which the cable system operator has no editorial control.

**Q: What is the "equal opportunities" rule of political cablecasting?**

**A:** Once a cable system allows a legally qualified candidate to use (identifiable appearance by voice or picture) its facilities, it must afford "equal opportunities" to all other legally qualified candidates for that office to use its facilities. The cable system may not censor the content of the candidate's material in any way, and may not discriminate between candidates in practices, regulations, facilities or services rendered pursuant to the equal opportunities rules.

Candidates must submit requests for equal opportunities to the cable system within one week after a rival candidate's first use of the cable system. If the person was not a legally qualified candidate at the time of the rival's first use, he or she may submit a request within one week of the rival's next use of the cable system after he or she becomes a legally qualified candidate.

**Q: Does a legally qualified candidate's appearance on a newscast trigger the equal opportunities rule?**

**A:** No. Candidate appearances which are exempt from the rules include appearances on a bona fide newscast, bona fide news interview, bona fide news documentary, or on-the-spot coverage of a bona fide news event.

**Q: How much can a cable system charge political candidates for advertising?**

**A:** Cable television systems may charge political candidates only the "lowest unit charge of the station" for the same class and amount of time for the same period, during the 45 days preceding a primary or runoff election and the 60 days preceding a general or special election. Candidates should be charged no more per unit than the system charges its most favored commercial advertisers for the same classes and amounts of time for the same periods. Information concerning the rates, terms, conditions and all discounts and privileges offered to commercial advertisers should be disclosed and made available to candidates.

**Q: What is the "Fairness Doctrine"?**

**A:** This doctrine requires a cable television system operator engaging in origination cablecasting to afford reasonable opportunity for the discussion of conflicting views on controversial issues of public importance. Although this requirement still appears in the Commission's rules, it is no longer enforced as a consequence of a Commission proceeding and a federal court's decision in *Syracuse Peace Council v. FCC*, 867 F. 2d 654 (D.C. Cir. 1989).

**Q: What can a person do if he or she is attacked personally on a cablecast?**

**A:** The personal attack rule applies when "an attack is made upon the honesty, character, integrity, or like personal qualities of an identified person or group" during origination cablecasting concerning controversial issues of public importance. A cable system must give the following to the person or group attacked within one week: (1) notification and identification of the cablecast; (2) a script, tape or accurate summary of the attack; and (3) an offer of a reasonable opportunity to respond over the cable facilities.

**Q: What personal attacks are exempted?**

**A:** The rule exempts the following: (1) attacks by political candidates and their associates on other candidates and their associates including attacks that occur during "uses" by candidates; (2) attacks made during bona fide newscasts, bona fide news interviews, and on-the-spot coverage of bona fide news events; and (3) attacks on foreign groups or foreign public figures.

**Q: Can a cable system endorse or oppose a political candidate in an editorial?**

**A:** Yes, as long as it complies with the political editorial rule. The rule requires the cable system to give to the opposing candidates not endorsed or the candidate opposed the following within 24 hours of a political editorial: (1) notification and identification of the editorial; (2) a script or tape of the editorial, and (3) an offer of a reasonable opportunity for the candidate or his or her spokesman to respond over the cable facilities. Where an editorial is cablecast within 72 hours prior to election day, the cable system is obliged to give notice and an opportunity to respond sufficiently far in advance to enable the candidate opposed or not endorsed a reasonable opportunity to prepare a response and to present it in a timely fashion.

**Q: Can a cable system carry advertisements for lotteries?**

**A:** Cable systems are generally prohibited from transmitting information or advertisements concerning lotteries or other schemes offering prizes dependent upon chance in exchange for consideration. The lottery rule exempts information about a state lottery cablecast by a system located in that state or in another state which conducts a state lottery, or by a system which is integrated with a cable system in such a state, if it is technically unable to terminate the transmission to other states. The rule also permits the cablecast of information about a lottery or similar scheme that is not prohibited by the state in which it is conducted and which is (1) conducted by a not-for-profit or governmental organization or (2) conducted by a commercial organization and which is clearly occasional and ancillary to the organization's primary business. Information about gaming conducted pursuant to the Indian Gaming Regulatory Act is also exempt.

**Q: How can viewers tell when certain cable programming is paid for by a particular person or group?**

**A:** The sponsorship identification rule requires the identification of the sponsor of any cablecasting which is presented in exchange for money, service or "other valuable consideration." All political spots must contain a visual sponsorship identification in letters equal to at least four percent of the screen height and the identification must be on the air for at least four seconds. Where the cablecast advertises commercial products or services, a mention of the corporate or trade name is considered sufficient. Sponsorship identification announcements must also be made before and after certain material if inducements are given to the cable system in exchange for cablecasting the material. Where political or controversial public issue spots are sponsored by a corporation, committee, association or unincorporated group or entity, the system operator must keep a list of the entity's governing officers or directors available for public inspection at the system's local office for a period of two years.

**Q: How much advertising can a cable system transmit during children's programming?**

**A:** Cable operators may transmit no more than 10.5 minutes of commercial matter per hour during children's programming on weekends and no more than 12 minutes of commercial matter per hour on weekdays. These limits were imposed pursuant to the Children's Television Act of 1990, which restricted the amount of commercial matter that both television broadcasters and cable operators may air on programs originally produced and broadcast primarily for children 12 years old and younger. Cable operators are responsible for compliance with the commercial limits on locally originated programming and on cable network programming, but are not responsible for compliance on ~~passively transmitted~~ broadcast stations or on access channels over which the cable operator may not exercise editorial control. Cable systems must also maintain records available for public inspection which document compliance with the rule.

**Q: Can a cable system carry advertisements for cigarettes?**

**A:** No. Advertisements for cigarettes, little cigars and smokeless tobacco are prohibited on any medium of electronic communication subject to the jurisdiction of the Federal Communications Commission. Laws against these types of advertising have criminal penalties and are administered by the U.S. Department of Justice rather than by the Commission.

**Q: Under what conditions may a cable operator exercise editorial control over obscene and indecent material?**

**A:** In 1996, the U.S. Supreme Court determined that cable operators may decline to carry indecent programming on leased access channels, but cannot exercise the same control over programming on public access channels.

**Q: What are access channels?**

**A:** There are two types of access channels. One type is known as leased access channels. Leased access channels are required to be provided by cable operators with 36 or more activated channels. These channels are for commercial use by any person or organization not affiliated with the cable operator.

The other type is the public, educational, and governmental ("PEG") channel. There is no requirement that a cable operator make PEG channels available. However, the 1984 Act specifically allows franchise authorities, if they so choose, to mandate that an operator provide PEG channels.

**Q: How have obscenity and indecency been defined?**

**A:** In 1973, the U.S. Supreme Court established the following criteria to determine whether speech is obscene: (1) whether the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to prurient interest; (2) whether the work depicts or describes in a patently offensive way sexual conduct specifically defined by applicable state law; and (3) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. In 1978, the Court stated that whether the work could be deemed "patently offensive" would depend on context, degree and time of broadcast.

The Commission's generic definition of "indecency" is one that applies to language that describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities and organs.

**Q: Are there provisions in federal law which penalize the showing of obscene material on cable channels?**

**A:** Yes. Both 47 U.S.C. §559 and 18 U.S.C. §1468(a) respectively bar the transmission of obscene material over a cable system and the knowing utterance or distribution of obscene matter by means of a cable television system or subscription service.

**Q: Is there a way for a parent to know whether a television program contains objectionable**

**content and to prevent such a program from being viewed?**

**A:** Yes. The Telecommunications Act of 1996 ("1996 Act") contains provisions designed to provide parents increased control with respect to the viewing of television programs. One such provision requires the broadcast and cable television industries to develop, within one year after enactment of the 1996 Act, voluntary rules to rate programming that contains violence and sexual or other indecent material. The 1996 Act also requires that television receivers manufactured or imported for use in the United States be equipped with circuitry that is capable of identifying all programs with a common rating and blocking individual channels during selected time periods. This is the circuitry commonly referred to as the "V-chip." This requirement would apply to all television sets with at least a 13-inch screen and the Commission is required to consult with television manufacturers to determine when this requirement should take effect.

**Q: What rules, if any, apply to sexually explicit programming?**

**A:** Section 505 of the 1996 Act states that cable operators, or other multichannel video programming distributors who offer sexually explicit adult video programming or other programming that is indecent on any channel(s) primarily dedicated to sexually-oriented programming, must fully scramble or block both the audio and video portions of the channels so that someone who does not subscribe to the channel does not receive it. Until a multichannel video programming distributor complies with this provision, the distributor cannot provide the programming during hours of the day when a significant number of children are likely to view it.

**Q: What does "fully scramble or block" mean?**

**A:** The 1996 Act states that "fully scramble or block" means to rearrange the content of the signal of the programming so that the programming cannot be viewed or heard in an understandable manner.

**Q: What are the hours during which this programming cannot be shown?**

**A:** The Commission has determined that a significant number of children are likely to be watching television between 6:00 a.m. and 10:00 p.m. Therefore, sexually explicit programming cannot be shown during these hours unless it is fully scrambled or blocked.

**Q: Is there anything else that will allow cable television subscribers to block objectionable programming?**

**A:** Yes. Cable subscribers may request a "lockbox" from cable operators to prevent the viewing of any channel on which objectionable programming may appear. Cable operators are required to make lockboxes available to customers who request them.

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