

Media & Democracy

Full Disclosure: Transparency in Political Advertising

We are not afraid to entrust the American people with unpleasant facts, foreign ideas, alien philosophies, and competitive values. For a nation that is afraid to let its people judge the truth and falsehood in an open market is afraid of its people.
-- President John F. Kennedy

You've seen them. Indeed, there's no escaping them. The political ads spew from your TV set every election season, ridiculously building up some candidates and tearing down others. Who pays for all this trash, you probably wonder. What're they after? Increasingly, the ads offer nary a clue. Tag lines like: "Paid for the by the People for Purple Mountain Majesties" don't tell you anything. There were so many of these ads in 2012 that local news outlets in some areas started cutting minutes off their programming to show them. The 2014 mid-terms won't be any different. Anonymous donors already are funneling millions to shadowy "social welfare" groups and SuperPACs to produce and air ads that will confuse and misinform voters, ultimately leaving them in the dark about who is responsible for them.

It doesn't have to be this way. A major reform to pull back the curtain hiding these advertisers can be implemented **immediately** -- without legislative action or a court order. The Federal Communications Commission (FCC), an independent agency headed by an Obama appointee, can act now to enforce a disclosure requirement that is already on the books. The **You're Entitled to Know** campaign is pushing the FCC to enforce the law and compel disclosure of the "true identity" of the sponsors of political advertisements. As the Supreme Court's *Citizens United* decision stated, "transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."

After the Citizens United decision, the number of groups running political ads has exploded and many hide their true backers through innocuous names. A Common Cause investigation revealed that the "the Small Business Action Committee" and the "California Future Fund," which spent millions to influence ballot initiatives in 2012 were actually connected to the billionaire Koch Brothers.

Background

Section 317 of the Communications Act (47 U.S.C. § 317) requires on-air identification of the sponsors of all advertisements, political as well as commercial. Explaining the rules it wrote to implement the statute, the FCC stipulated years ago that political ads must "fully and fairly disclose the true identity of the person or persons, or corporation, committee, association or other unincorporated group, or other entity" paying for them. "Listeners are entitled to know by whom they are being persuaded," the Commission said.

A “petition for rulemaking” pending at the FCC calls on the Commission to issue new rules requiring meaningful disclosure of the identity of those purchasing commercials relating to the election of candidates and other controversial issues of public importance. As the rulemaking request states, “current sponsorship identification rules are obsolete, and do not ensure effective disclosure in the case of many political advertisements.”

Sponsorship identification requirements have been in the law since 1927, yet they have not been significantly revised since the 1960s. Currently, FCC sponsorship identification rules nominally require that broadcasters disclose on-air the “true identity” of the sponsors of broadcast messages. For political commercials, the name of the sponsor’s chief executive officers, or a list of its executive committee or directors, is to be placed in a file kept at the station and available to the public. Special provisions apply to commercials paid for by a candidate or official campaign committee. An independent study by the Government Accountability Office (GAO) in 2013 concluded that the FCC’s sponsorship identification authority applies equally to political and non-political programming on television and radio.

Solution

Because a disclosure law is already in place, all we need is a modest updating of FCC rules to ensure that viewers get information on each ad’s funding source. Furthermore, existing rules for what broadcasters are required to keep in their public files should be updated to reflect these new practices. The FCC should also require that broadcasters obtain sworn statements from political advertisers identifying their largest sources of funding and place that information in the station’s public file.

The current five-member Commission is made up of three Democrats and two Republicans. Tom Wheeler, an Obama appointee, is the current Chairman. Three votes in favor the rulemaking petition can carry the day for disclosure—and democracy.

Action

At a time when many Americans “learn” more about election campaigns from political ads than from the consolidated media companies that have fired thousands of reporters and crippled hundreds of newsrooms, the fissures in our democracy will only widen unless anonymous money is brought to account. It is time to bring our campaigns and our country into the bright sunlight of full disclosure.

- **Press the FCC to use its existing authority to adopt new, updated rules requiring more accurate sponsorship identification of political advertisements on television and radio.**