

Interpreting BCRA: Showtime's American Candidate Entitled to "Media Exemption"

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The Federal Election Commission (FEC) has issued an advisory opinion recognizing Showtime Networks Inc.'s entitlement to the "media exemption" to produce and televise a new reality documentary series called the *American Candidate*. The television series will feature ordinary citizens from all walks of life competing to prove they have what it takes to be President of the United States. Through three months of intensive campaigning, each participant will compete against each other for the title "The American Candidate" and the national acclaim and attention their television candidacies generate. The series also will engage viewers who will vote online for their favorite candidates each week.

WRF sought the advisory opinion on behalf of Showtime and its parent corporation, Viacom, in order to obtain the FEC's assurance that all aspects of the television series comply with the Federal Election Campaign Act (FECA) and FEC regulations. In particular, Showtime sought the FEC's assurance that the television program could feature appearances by actual federal presidential candidates and that no campaign contribution or expenditure would be triggered in the event a contestant might decide to launch a candidacy for public office following his or her participation on the program.

The FEC concluded that Showtime and Viacom are "press entities" entitled to the FECA's "media exemption" from regulation. Accordingly, the FEC ruled:

"*American Candidate* is 'commentary' within the meaning of the Act and the regulations. If the *American Candidate* series is produced as indicated in your request, Viacom, Showtime or [the producer] will be engaging in a legitimate press function."

As such, the television series is exempted from regulation by the FEC. See FEC Advisory Opinion 2003-34 (approved December 18, 2003).