

ALERT

FCC's Media Bureau provides Guidance on LUC during COVID-19 Pandemic

March 25, 2020

The Federal Communications Commission's (FCC) Media Bureau has issued guidance to broadcasters about how their decisions to provide free commercial time to advertisers during the current national emergency impacts the calculation of lowest unit charge (LUC) for political advertising.

Broadcasters have reported to the FCC that radio and television stations are facing unprecedented cancellation of advertising as a result of the nationwide shutdown of non-essential business during the coronavirus (COVID-19) outbreak. Broadcasters further explained that, in order to support their local businesses and fill inventory, they would welcome the flexibility to offer free spots to certain commercial advertisers during this time. Broadcasters have been constrained in their efforts to do so because providing free advertising necessarily would impact the LUC stations must make available to political candidates during the relevant windows - 45 days preceding a primary election and 60 days before a general election.

In positive news for our broadcast clients, the Media Bureau has affirmed that *broadcasters may temporarily exclude **free time** that they provide to commercial advertisers from the calculation of LUC.* The exception does not apply to existing contracts for the sale of commercial time (e.g., where existing contracts may include previously negotiated bonus spots). Rather, the offer of free time must be a new stand-alone offer of spots. We recommend that broadcasters keep careful documentation of the terms of their offers of free time and the schedules of free time aired. This temporary exception will be lifted once normal business conditions are restored.

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