

FCC Declares Anderson Cooper's Daytime Talk Show to Be Exempt From Equal Opportunities - What's The Impact on Your Local Talk Programs?

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December 2, 2011

The FCC issued a declaratory ruling this week finding that Anderson Cooper's new talk show appeared to be a **bona fide news interview program exempt from equal opportunities** under the FCC's political broadcasting rules interpreting the mandate of Section 315 of the Communications Act. This ruling is another in a series of rulings by the FCC making clear that virtually any interview-type program on which a candidate appears, that is not administered in a partisan fashion and which is regularly scheduled and regularly conducts interviews with newsmakers or discusses political issues, is exempt from equal time. The FCC has, in the past, issued such rulings for programs as diverse as the Phil Donahue program, Geraldo, Howard Stern, Entertainment Tonight, Today and a variety of other programs. As we have written before, these decisions stem from the FCC's belief that people no longer get their news from the stereotypical Sunday morning news interview program, but instead they find news of interest in programs that might otherwise be considered entertainment or even comedy, but which regularly touch on political topics. As long as these programs are not administered so as to be a mouthpiece for a party or candidate, but instead pick their guest based on some form of journalistic discretion ("journalistic" being a very broad term – one that covers any sort of reasonable judgment as to newsworthiness or topicality), the fact that the program talks to one candidate for a public office does not require a station carrying the program to give equal time to all other candidates for that same office.

At one time, these rulings regularly were issued by the FCC, but they are less frequent now, as the FCC has clearly established the precedent and shown its very liberal interpretation of the bona fide news interview program exemption from equal opportunities. Stations do not need to get a declaratory ruling to operate pursuant to this exemption. Any program that your station produces that is under the control of the station, and which regularly interviews newsmakers and covers political topics, can rely on this exception. So that crazy morning team that occasionally talks to the mayor or the local state Senator can interview political candidates without the fear of having to provide every minor party or write-in candidate an opportunity to be heard. A free speech victory.

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