Comparing Western Democracies:
Free Air Time & the European Model

Submitted to the
Law & Policy Division
of BEA

Open Competition

By

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Abstract

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In his January, 1998 State of the Union Address, President Clinton referred yet again to one of his favorite themes: campaign finance reform brought about in part by free television advertising time provided to candidates by local television stations. Although his ideas were not new, and indeed did not progress very far, Clinton's appeal to the FCC sparked a new ring of debates regarding broadcast law and policy and how they relate to the public interest.

One of President Clinton's primary justifications for fighting for free air time is the example set forth by other western democracies. The President has said:

> We are the only major democracy in the world where candidates have to raise larger and larger sums of money simply to communicate with voters through the medium that matters most. Every other major democracy offers candidates or parties free air time to speak to voters . . . . (speech, March 11, 1997).

Would the free air time proposals under consideration really bring the United States in line with other western democracies? This paper will review the existing policies and regulations regarding political television advertising in the United States, then compare and contrast these regulations with those of other western democracies. Findings suggest that while other western democracies do provide free air time, it is not at all like the free advertising time proposed by campaign finance reformers in the United States.

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In his January, 1998 State of the Union Address, President Clinton referred yet again to one of his favorite themes: campaign finance reform brought about in part by free television time provided to candidates. During his speech, the President stated that he would "formally request that the Federal Communications Commission act to provide free or reduced-cost television time for candidates who observe spending limits voluntarily" (State of the Union Address, Jan. 1998). Although his ideas were not new, and indeed did not progress very far, Clinton's appeal to the FCC sparked a new ring of debates regarding broadcast law and policy and how they relate to the public interest.

Generally, free air time means that local stations would be compelled to provide free advertising time to federal candidates for office. Once of the most comprehensive reform plans is the Bipartisan Campaign Reform Act of 1997, also known as McCain-Feingold (S. 25 PCS). This plan would have awarded each candidate 30 minutes of free air time to be used for advertising in prime time at the local station. Although this plan has not passed to date, the idea of free air time seems to be gaining momentum (Doherty and Cassata, 1996).

One of President Clinton's primary justifications for fighting for free air time is the example set forth by other western democracies. The President has said:

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United States

In the United States, political advertising is generally purchased by the candidate on any broadcast or cable station he/she chooses (with the exception of the Public Broadcasting Network). Content is usually not restricted, and there are no length requirements. The regulation of political advertising, however, is generally broken down into two major areas: equal time/opportunity and the lowest unit rate for advertising.

Equal Time/Equal Opportunity

Section 312 (a) (7) of the Communications Act of 1934 stipulates that broadcasters must make air time available for purchase for all federal candidates, beginning 45 days before a primary and 60 days before a general election. Although stations are not required to provide a specific time--or even a specific amount of time--they <u>are</u> under obligation to provide space during prime time and other key programming times (Johnson-Cartee & Copeland, 1997). In other words, broadcasters must provide reasonable access for the candidates to reach the voters. This ruling applies only to federal candidates; however, the FCC also maintains that stations should, in the public interest, “devote substantial time to state and local political campaigns” (Johnson-Cartee & Copeland, 1997, pp. 211-212).

When a station chooses to provide time to one state or local candidate, though, it must provide equal opportunities to all other candidates in that race as well (Section 315). Equal opportunity encompasses not only the same amount of time but also the expectation of reaching the same audience as the opposing candidate. This provision deals specifically with broadcast "uses." "A use is any broadcast that contains the candidate's voice or picture. A use may occur even if the candidate is not talking about his candidacy" (Johnson-Cartee & Copland, 1997, p. 212). News programs are exempt from the uses provision.

Stations are not required to alert candidates when an opponent buys time, however. The candidates and/or their campaign staff are responsible for listening or watching the stations and requesting equal opportunities (Law of Political Broadcasting & Cablecasting, 1978).

Lowest Unit Rate

In addition to the equal opportunities provision, the Communications Act of 1934 also maintains that broadcast stations must charge federal candidates the lowest ad rate given to any advertiser. Such prices are usually reserved for high volume advertisers. This lowest unit rate (LUR) is in effect during the 45 days before a primary election and the 60 days leading up to a general election. Additionally, before this 45/60 window, stations cannot charge more than they would charge a non-political advertiser (Johnson-Cartee & Copeland, 1997). Political Action Committees (PACs) do not qualify for these rates under current policy, and the costs of production are not regulated.

The LUR is generally preemptible. In other words, a station may at their discretion (i.e. if a better paying regular advertiser comes along) move the political commercial to another place in the evening's line-up or, in some cases, to another day. For that reason, many stations offer candidates a tier of options (Jenkins, 1997b). Although this tier is not part of the political advertising code, it has become an unchallenged practice for local stations and Networks alike. Located at the bottom of the tier, the LUR is the least expensive political advertising but is preemptible without notice. The second tier is a slightly higher price and is preemptible also, but the station must give the candidate notice (usually 3-5 days). The third tier is the most costly but is guaranteed non-preemptible. It must be noted, however, that even the third tier is a reduced rate from what regular advertisers would pay for a non-preemptible time slot.

France

Of all the major democracies, France has some of the most stringent guidelines for political advertising. Only political parties, not individual candidates, may sponsor television ads, and the parties must adhere to "comparatively detailed restrictions for the production and contents of political broadcasts" (Holtz-Bacha & Kaid, 1995, p. 16). These restrictions even specify the production companies that can be used. France limits the total number of broadcast spots allowed with a formula based on the proportion of votes received by that party. This practice favors the larger parties and works to the disadvantage of third parties and minority parties. Political ads are aired on the public broadcast stations only, and in the 1993 elections, ads ran as long as four minutes each (Holtz-Bacha & Kaid, 1995). Candidates are not allowed to purchase air time; it must be purchased by the party (Holtz-Bacha & Kaid, 1995; Katz, 1996).

Campaigns in France are financed by political parties through membership dues or fees. The parties also charge for municipal research or advertisements in the party paper—both are offered at exaggerated prices (Avril, 1994). Supporters will pay the exorbitant prices, knowing that the proceeds will go into party coffers. Although the party funds the elections, there are federal limitations on how much can be spent per candidate. For Parliament members, the limit is 500,000 francs per candidate ($82,000 U.S.). For the Presidency, the spending limit is 120 million francs ($19 million U.S.) for the first ballot, with an additional 40 million francs ($6 million U.S.) provided for the two top candidates on the second ballot (Avril, 1994).

Concerned with the escalating costs of running campaigns, a 1990 bill greatly restricted political campaigning in the three months leading up to the month of the election. Until the actual election month, candidates and parties are forbidden to use posted advertising, print advertising, or broadcast advertising. They are also denied free telephone service during this time. All expenditure campaigning is restricted to the month of the election (Avril, 1994).

Germany

Germany, like France, also allocates air time according to the proportion of votes cast. Germany also accepts only ads sponsored by parties; candidates are not allowed to purchase time. Germany, however, allows ads to be run on both public and private stations and puts no restrictions on content or production. All election spots in Germany are restricted to 2.5 minutes (Holtz-Bacha & Kaid, 1995). For the two public channels (ARD and ZDF), political advertising is free. However, the largest number of spots a party can air in an election is eight (Schoenbach, 1996). This number is prorated based on the size of the party; smaller parties have less than eight slots allocated for their use. Germany has equal opportunity laws, but allows a graded system where larger parties are more "equal" than smaller ones (Holtz-Bacha & Kaid, 1995).

Today, privately-owned commercial television stations are very popular sources of both news and entertainment for the German viewing public. Before the growth of commercial stations, however, the major parties were greatly influential in determining which journalists would be hired at the two public stations. These journalists were under no obligation to hide their party leanings. During election time, therefore, candidates could count on good public relations "news" stories by their reporter (Schoenbach, 1996). The parties have no such leverage over the two commercial stations, however, and have begun learning to implement the more staged, American-style pseudo-events in order to get news time (Schoenbach, 1996). Pseudo-events are choreographed media moments such as conventions, rallies, or press conferences designed to attract reporters (Nimmo & Combs, 1980). Germany is currently considering voluntary limits on campaign expenditures but has passed no laws to date (*The Economist*, 1997b).

United Kingdom

While commercial television is relatively new for many European countries, the United Kingdom has permitted commercial broadcasting since the 1950s (Holtz-Bacha & Kaid, 1995). The UK allows political time on both public and private channels and provides equal broadcasting time for the two main parties. Smaller parties receive broadcast allocations based on their political viability. The two major parties each receive five broadcast spots, which must run from five to ten minutes each (Holtz-Bacha & Kaid, 1995; Blumler, et al, 1996). The United Kingdom imposes no restrictions for the parties on advertising content (Holtz-Bacha & Kaid, 1995), but paid political advertising per se is forbidden on television (Blumler, et al, 1996).

Great Britain is unique in that it does not restrict contributions but does restrict expenditures by candidates. A candidate may spend no more than 8,000 pounds (approximately $13,000 U.S.) on their own campaign (*The Economist*, 1997b). Parties, however, may spend whatever they choose on national campaigns--with the exception of the discussed limits on television time (*The Economist*, 1997b). The largest expenditure for British campaigns in the 1990s (both candidate and party) was newspaper advertising (Pinto-Duschinsky, 1994).

Italy

Italy has undergone numerous changes in the electoral process in the past 10 years. Campaigns in Italy were funded with public money until 1993, when 90 percent of the Italian electorate voted to end the practice (Alexander & Shiratori, 1994). The move to cease public funding was sparked by a nationwide scandal involving more than 1,500 politicians and businessmen accused of taking or giving kick-backs worth approximately $193 billion (Alexander & Shiratori, 1994).

The scandal also led to new political laws which apply only to the thirty days before the election (Law 515) and were designed to keep voters from being influenced emotionally by the ads (Holtz-Bacha & Kaid, 1995). Candidates were forbidden from appearing on any television program during this time except for news programs, which were required to follow a strict code of fairness in their journalistic endeavors. All advertising--press, radio, and television--was forbidden during this time, and it became illegal to release results from public opinion polls during this time period. Candidates could spend no more than 80 million lire (approximately $50,000) on their election campaign (Mazzoleni, 1996).

The candidates in the 1994 elections came up with a simple plan to evade the new laws: they moved the real campaign to the months *ahead* of the restricted time period. Silvio Berlusconi, who owned three national commercial television networks, conducted a purely American-inspired campaign (Mazzoleni, 1996). Because Italy has no limit on the amount of television time that can be purchased, Berlusconi used his own networks to air hundreds of commercials promoting his candidacy and his new party *Forza Italia* (Mazzoleni, 1996). Exactly one month before the election the media blitz stopped, and the candidates began their one-on-one campaigns with voters. Italy is considered by many experts to be in a state of flux, still evaluating the future of election laws in their country (Mazzoleni, 1996; Alexander & Shiratori, 1994).

Other Western Democracies

The United States is the only western democracy which allows individual candidates to sponsor air time. In addition to those already mentioned, Denmark, Finland, the Netherlands, and Israel require political ads to be sponsored by parties. While Finland and the Netherlands will allow political ads on the public broadcasting stations, Denmark, France, and Israel will allow parties *only* to utilize the public stations. The United States and Finland are the only two democracies that do not allow any political advertising on the public broadcasting stations (Holtz-Bacha & Kaid, 1995). Italy allows unlimited spots, which are available for purchase by any candidate; the United States allows the purchase of unlimited spots for federal campaigns.

Table1 Comparing Major Western Democracies and Political Broadcasting

	France	Britain	Germany	Italy	U.S.
Provides Government sponsored Free TV	Yes	Yes	Yes	No	No
Allows political TV Commercials	No	No	No	Yes	Yes
Allows political on public stations	Yes	Yes	Yes	Yes	No
Political restricted to public stations only	Yes	No	No	No	No
Party sponsored Only	Yes	Yes	Yes	Yes	No
Candidate sponsored	No	No	No	No	Yes
Advertising time Windows	Election Month Only	Up to 5 Spots only Per cycle	Up to 8 Spots only Per cycle	No ads 30 Days b/f Election	LUR 45/60
Content restrictions?	Yes	No	No	No	No
Length restrictions	Up to 4:00	5 min. to 10 min. only	2.5 min.	None	None
Political “programs” only, No advertising	Yes	Yes	Yes	No	No

Interestingly enough, the U.S. and Finland have some of the shortest political TV ads; the average spot in the U.S. is 30 or 60 seconds, while in Finland the average spot is 16 seconds (Holtz-Bacha & Kaid, 1995). In contrast, democracies with government-allocated time have much longer ads, such as the three-minute ads in Israel and the Netherlands and the ten-minute spots in Denmark (Holtz-Bacha & Kaid, 1995).

In comparing democracies, other restrictions also surface. In Israel, the Election Commission must approve all political ads before they can be aired. In Finland, political TV ads cannot attack individuals or promote products. In the Netherlands, free air time is provided for all parties but the time is to be used for a short political program not a political commercial. However, “studies have shown that relatively few people listen to or watch the programs” (Koole, 1994, p. 121).

In analysis, while other western democracies do provide free air time for their candidates, the time is not used in the American tradition of thirty-second ads. Instead, the free time is used for longer political messages, much like the free debate time already offered by American broadcasters. Additionally, much of the free time in other countries is provided on the public access system, and is greatly restricted by content and quantity.

Response from NAB

The National Association of Broadcasters (NAB) just celebrated its 75th anniversary as an organization. The purpose of NAB is to represent the broadcast industry (both radio and television) in Washington with Congress, the FCC, and even in court (NAB web site, 1999). Additionally, NAB provides information and resources to its members and tracks broadcasters' participation in public service areas, political discourse, and other areas.

Clearly, mandatory free television time is not an issue favored by the NAB. But the reasoning is not as simple as some free air advocates have purported. NAB <u>is</u> in favor of providing free air time for political discourse; NAB is <u>not</u> in favor of providing free air time for political advertising (Fritts, 1998). In fact, NAB reports that during the 1996 elections broadcasters donated $148.4 million in free air time consisting of candidate forums and debates. Additionally, candidates turned down another $15 million worth of free time (NAB web site, 1999). For example, President Clinton, a strong advocate of free air time, and Sen. Bob Dole were each offered 30 minutes of free air time in 1996 on the evening before the election. FOX broadcasting promised "no strings attached, no moderators and no spin doctors" (Fritts, 1998, p. 4). Both candidates declined the offer.

Eddie Fritts, president of NAB, states: "Broadcasters have a great tradition of voluntarily offering free time for debates. The dirty little secret is that politicians have an equally long tradition of rejecting those offers" (Fritts, 1998, p. 4). Fritts also cites a survey commissioned by PROMax (Promotion and Marketing Executives) and carried out by Opinion Research to determine what information format voters find most valuable.

> The results? 36% chose debates; 30% chose newscasts; 17% chose public affairs and interview programs; 6% chose political advertising and 11% had no comment/no response. In other word, 83% of respondents said they received their most valuable information from free airtime already donated by broadcasters. Moreover, 61% of those surveyed opposed giving politicians free airtime on top of existing paid advertising. (Fritts, 1998, pp. 3-4)

NAB now publishes a newsletter called the *Free Air Times.* This newsletter "highlights the voluntary efforts of these stations to improve the nation's political discourse" (NAB, 1999). The editors track candidate debates, phone-in shows, news segments, interviews, and other types of donated political air time.

In a rebuttal to a proposal published in *Campaigns & Elections*, Fritts asserts that conventional wisdom regarding the need for free political advertising time is "flat wrong." He wrote:

> The cost of individual TV ads is not the reason why campaign costs have soared. Candidates, through their consultants, are simply buying more time each year--three times as much as was purchased 10 years ago--in an effort to "carpet bomb" the electorate with more attack ads.
>
> Broadcasters would like to see the level of political discourse enhanced, as evidenced by the thousands of hours of free time each election season in the form of news coverage, candidate profiles, public affairs programming and debates. That's the type of coverage valued by the American people, rather than a federally-mandated free time plan that would simply enable politicians to double up on negative attack ads. (Fritts, 1998, p. 3)

Fritts also pointed out in another interview that "only about 30 percent of campaign dollars goes to broadcasters. It's totally impractical to expect one private industry should reform campaign finance laws" (Littleton & Jessel, 1997, p. 39). Noting that federal law already mandates lowest unit rate, Fritts asserts that the LUR already gives candidates a 30 percent discount over market rates equaling millions of dollars in savings for candidates (Fritts, 1998).

In short, broadcasters believe they take the public interest trust seriously. They argue that their current contribution of free TV time is more valuable than additional advertising would be--and provides more of what viewers really want.

Conclusions

In conclusion, proponents of free air time should eliminate other western democracies from the argument. Current proposals for free air time provide free advertising time, something that most western democracies do not. Instead, other western democracies provide free access for candidate debates and longer messages from political parties. According to broadcasters, this type of time is already made available to candidates here in the United States.

Additionally, the European model shows restrictions on length of spot, content, and number of spots to be run. Many western democracies only allow political messages on their public access channel (similar to our PBS). These public channels are not businesses, but are usually funded by the government. In the United States PBS is partially funded by the government, but political messages are not accepted at all except in context of a regular program. The free air time proposals here are instead directed at broadcast networks, which operate as for-profit businesses and do not receive funding from the government. In short, proponents of free air time would be closer to the European model—and more closely aligned with other western democracies—if they focused attention on PBS as opposed to the broadcast networks.

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