

Why GAO Did This Study

The FCC is responsible for ensuring that the public knows when and by whom it is being persuaded. Requirements direct broadcasters to disclose when a group or individual has paid to broadcast commercial or political programming. Political advertising must also comply with requirements overseen by the FEC. Recognition of sponsored programming has become increasingly difficult because of new technologies and increased access to sponsored programming such as video news releases. GAO (1) describes requirements for sponsorship identification and federal election disclaimers and stakeholders' views of the requirements and (2) assesses how and to what extent FCC and FEC address complaints. To conduct the work, GAO reviewed relevant laws, guidance, and enforcement procedures, and interviewed agency officials and stakeholders about enforcement processes and actions.

What GAO Recommends

FCC should, among other things, update its sponsorship identification guidance and consider providing additional examples relevant to more modern issues and communicate the resolution of an investigation to the target of the investigation when a letter of inquiry has been sent, and develop goals for resolving all sponsorship identification cases within a specified time frame. GAO provided FCC and FEC with a draft of this report. FCC indicated it will consider the recommended actions and how to address the concerns discussed in the report. Both FCC and FEC provided technical comments.

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BROADCAST AND CABLE TELEVISION

Requirements for Identifying Sponsored Programming Should Be Clarified

What GAO Found

Sponsorship identification statutes and regulations, overseen by the Federal Communications Commission (FCC), require broadcasters to identify commercial content—usually an advertisement, an embedded advertisement, or a video news release—that has been broadcast in exchange for payment or other consideration. A written or verbal sponsorship announcement must be made at least once during any sponsored commercial content except when the sponsor is obvious. For content considered political or that discusses a controversial issue, broadcasters must follow all requirements for commercial content and additional requirements, such as identifying officials associated with the entity paying for an advertisement. In addition, the Federal Election Commission (FEC) enforces federal election law that requires all political communications for a federal election, including television and radio advertisements, to include a disclaimer statement. FEC also oversees requirements to report campaign funding and expenditures, including funding for political advertising. FCC has guidance that helps broadcasters determine when a sponsorship announcement is needed, such as when a deejay receives a payment for airing specific content. While broadcasters consider this guidance useful, it addresses older technology that in some cases is no longer used. Furthermore, some broadcasters indicated that it would be helpful for FCC to clarify how the guidance applies in some situations, such as when a video news release or product is used during programming.

According to FCC, it opened 369 sponsorship identification cases representing just over 1 percent of the Investigations and Hearings Division's total cases opened from the beginning of 2000 through 2011. In 22 of these cases, FCC issued enforcement actions with varying types of violations and enforcement actions. While FCC follows standard procedures when addressing complaints, it does not inform the broadcaster named in the complaint of the outcome of the investigation in many cases. Most broadcasters we spoke with confirmed that FCC does not inform them of the status of investigations, and some indicated they currently do not know the status of several investigations. According to FCC, it does not communicate status with broadcasters named in complaints because, among other reasons, it has no legal obligation to do so. Broadcasters reported the lack of information about cases and FCC decisions creates uncertainty about the propriety of their past actions. As a result broadcasters might not have sufficient information to determine whether they should modify their practices. This can result in stations' editing content because of unwritten regulatory policy or what they assume the policy to be. Moreover, these investigations can be lengthy, taking from 10 months to over 5 years to complete when an enforcement action is involved. From 2000 through May 2012, FEC opened 301 cases based on complaints alleging violations of political advertisement disclaimer requirements. FEC assessed civil penalties in 29 cases, 7 of which were related to television or radio advertisement disclaimers. Unlike FCC, FEC provides status updates to those involved in investigations and issues reports explaining investigation findings. FEC also issues reports explaining case dismissals. These reports can clarify acceptable and unacceptable practices for the regulated community.