

# MEMORANDUM

## **REVISED FOREIGN PROGRAMMING DISCLOSURE REQUIREMENTS**

In 2022, the FCC adopted rules that required enhanced sponsorship identifications when program time is bought (or, in the FCC's words, "leased") on broadcast stations that was sponsored by a foreign government or an agent of a foreign government. In addition, the FCC required broadcasters to investigate and verify whether program buyers were agents of foreign governments, both by getting certifications from program buyers as to whether they represented foreign governments and by checking a Department of Justice database (compiled under the Foreign Agents Registration Act ("FARA")) to see if the buyer was registered as a foreign agent. The Commission took this action in response to reports that U.S. broadcast stations were transmitting undisclosed foreign governmental programming, against the backdrop of over ninety years of sponsorship identification regulations that ensure the public is informed when airtime has been purchased on broadcast stations in an effort to persuade audiences.

The United States Court of Appeals for the DC Circuit rejected and vacated those rules. The FCC has now issued new, revised rules. **These new rules take effect on August 15, 2024.**

**The updated rules stipulate that radio and television stations must clearly disclose any programming sponsored by foreign governments.** If such foreign-sponsored programming exists, the licensee must broadcast the following disclosure:

**The [following/preceding] programming was [sponsored, paid for, or furnished], either in whole or in part, by [name of foreign governmental entity] on behalf of [name of foreign country].**

Under the new guidelines, broadcasters have two methods to demonstrate compliance without engaging in extensive investigations -- a requirement that had led to the previous rules being vacated. To determine whether programming sponsored by foreign governments exists, broadcasters can either (i) make the inquiries specified in the standardized certification provided by the FCC or (ii) have the licensee display search results from checks done on specific federal government websites. These checks are required to be performed annually if the programming remains constant. Compliance with one of these two approaches generally must be at the time of entering into any new lease agreement or renewing an existing lease agreement.

The approved certification template is as follows:

Name of Licensee: \_\_\_\_\_  
Name of Programming Lessee: \_\_\_\_\_  
Name of Program: \_\_\_\_\_  
Nature of Lease: New: \_\_\_ Renewal: \_\_\_

- \_\_\_ Licensee informed Lessee that FCC regulations require that a disclosure accompany programming that is sponsored, paid for, or furnished by a foreign governmental entity.
- \_\_\_ Licensee asked Lessee whether Lessee is a foreign governmental entity. A foreign governmental entity can be a foreign government, a foreign political party, an agent of a foreign principal, or a U.S.-based foreign media outlet.
- \_\_\_ Licensee asked Lessee whether it knows if any individual/entity in the chain of producing or distributing the programming is a foreign governmental entity and has provided some type of inducement to air the programming.
- \_\_\_ Licensee sought from Lessee a written response certifying Lessee’s answers. Lessee did \_\_\_ did not \_\_\_ provide a written certification.
- \_\_\_ If applicable, Licensee obtained from Lessee the information needed to add the following disclosure to Lessee’s programming: “The [following/preceding] programming was [sponsored, paid for, or furnished], either in whole or in part, by [name of foreign governmental entity] on behalf of [name of foreign country].”

On behalf of Licensee, I certify that the above statements are accurate.

|                   |           |      |
|-------------------|-----------|------|
| Name and Position | Signature | Date |
|-------------------|-----------|------|

The Certification must be filled out and signed by *both* the licensee and the originator of the programming. Licensees must retain all of their certifications and screenshots for the length of the license term or one year, whichever is longer, pursuant to the record retention requirement contained in the Commission’s Rules.

Section 325(c) permittees which deliver programming from a U.S. studio to a non-U.S. licensed station in a foreign country for broadcast back into the United States will be subject to the foreign sponsorship identification requirements. Religious programming also is subject to the foreign sponsorship identification requirements.

In contrast, the FCC has decided to *exempt* advertisements for commercial goods and services from these rules. Moreover, although the rules will still apply to *issue* advertisements and *paid public service announcements*, but *not to political advertisements*. Therefore, purchases of broadcast time by or on behalf of legally qualified candidates or their authorized committees will be exempt from the foreign sponsorship identification requirements.

If you have any questions, please contact this office.