

Fairness Doctrine
Political Broadcast, Personal Attack

Report and Order issued to amend Part 73 of rules to exempt all vestiges of personal attacks from Section 315 uses. BC 78-291

FCC 79-433

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the Matter of

Amendment of Part 73 of the Rules
Regarding Personal Attacks, and Applicability
of the Fairness Doctrine to Section 315 "Uses."

BC Docket No.
78-291

REPORT AND ORDER

(Adopted: July 12, 1979; Released: July 30, 1979)

By THE COMMISSION:

Introduction

1. The Commission has before it a Notice of Proposed Rule Making and Notice of Inquiry¹ regarding, respectively, proposed amendments to Part 73 of the Rules regarding personal attacks (47 CFR 73.1920) and the applicability of the Fairness Doctrine to Section 315 "uses."

2. Timely comments on the Notices were filed by nine parties: National Radio Broadcasters Association (NRBA), American Broadcasting Companies, Inc. (ABC); the firm of McKenna, Wilkinson and Kittner on behalf of 11 licensees (McKenna); National Association of Broadcasters (NAB); National Broadcasting Company, Inc. (NBC); Rochester Area Educational Television Association, Inc. (RAETA); Harte-Hanks Southern Communications, Inc. (Harte-Hanks Southern); CBS, Inc.; and Media Access Project (MAP), on behalf of the American Civil Liberties Union, the National Organization for Women and National Media Reform Committee. Reply comments were filed by NBC, ABC and MAP.

3. The Notices were issued in response to a request by NBC for a declaratory ruling that the personal attack rule is not applicable to broadcast "uses" covered by Section 315 of the Communications Act of 1934, as amended, and that the Fairness Doctrine and the equal opportunities requirement of Section 315(a) are mutually exclusive.

¹ 43 Fed. Reg. 45899 (1978). Adopted September 14, 1978; Released September 28, 1978. Comments were due on or before December 15, 1978 and reply comments on or before January 16, 1979.

4. We indicated in the Notices that since licensees have no control over candidates' appearances because of the no-censorship clause of Section 315, we do not believe it is justifiable to impose Fairness Doctrine obligations on them in connection with Section 315 "uses." We expressed our belief that our precedents in *Gloria Sage (WHEN-TV)*, 62 FCC 2d 135 (1976), *Application for Review denied*, 63 FCC 2d 148 (1977), and the Supreme Court decision in *Farmers Educational and Cooperative Union of America, North Dakota Division v. WDAY, Inc.*, 360 U.S. 525 (1959) (WDAY) support our policy of considering the Fairness Doctrine and Section 315 as mutually exclusive. We further stated that, on the other hand, in *Capital Cities Broadcasting Corp.*, 13 FCC 2d 869 (1968), the Commission had decided that there should not be "an exemption or waiver in the case of an attack by a candidate on a person not a candidate or associated with a candidate." In deciding not to create such an exemption the Commission concluded that a new exemption would be unnecessary in light of the infrequency of such fact patterns. We also concluded that, ". . . the obligation to notify a person that he has been attacked and to send him a copy of the attack and an offer of an opportunity to reply is not comparable to the possible liability for large sums of money in damages which may result from civil action based on the broadcast of defamatory remarks." *Id.* at 870.² However, in the instant Notices we stated that since the personal attack rule is one aspect of the Fairness Doctrine,³ and the Fairness Doctrine, in turn, depends upon licensee discretion, applying the personal attack rule to Section 315 "uses" is inconsistent with our policy of regarding the Fairness Doctrine and Section 315 "uses" as mutually exclusive. In the Notices, we proposed a rule amendment exempting Section 315 "uses" from the personal attack requirements. In addition we invited comments on our present policy of exempting Section 315 "uses" from application of the Fairness Doctrine.

5. Present Subparagraph (b) of the personal attack rule states that the requirements that licensees notify persons attacked, etc. are not applicable:

- (1) To attacks on foreign groups or foreign public figures;
- (2) To personal attacks which are made by legally qualified candidates, their authorized spokesmen, or those associated with them in the campaign on other such candidates, their authorized spokesmen or persons associated with the candidates in the campaign; and
- (3) To bona fide newscasts, bona fide news interviews and on-

² *WDAY, supra*, stated, in effect, that licensees were not liable for remarks made during "uses" by legally qualified candidates.

³ In the 1974 *Fairness Report*, 48 FCC 2d 1 (1974), we stated that ". . . the personal attack and political editorializing rules are a particularization of what fairness requires in these situations."

the-spot coverage of a bona fide news event, including commentary or analysis in the foregoing programs.

6. In the instant Notices, we proposed to amend Subparagraph (b) to read as follows:

The provisions of Paragraph (a) of this section shall not be applicable:

- (1) to attacks on foreign groups or foreign public figures;
- (2) to personal attacks which are made by legally qualified candidates;
- (3) to personal attacks made by the authorized spokespersons of legally qualified candidates or those associated with such candidates in the campaign on other such candidates, their authorized spokespersons, or persons associated with the candidates in the campaign; and
- (4) to bona fide newscasts, bona fide news interviews and on-the-spot coverage of a bona fide news event (including commentary or analysis contained in the foregoing programs.)

7. Briefly stated, this proceeding raised three questions for comment: (1) whether the Commission should continue its policy of treating Section 315 "uses" as separate from the Fairness Doctrine; (2) whether the Commission should amend Section 73.1920 so as to overrule *Capital Cities, supra*, and exempt all personal attacks occurring during Section 315 "uses"; and (3) whether, if the Fairness Doctrine were to apply to Section 315 "uses," *Cullman*⁴ should also apply.

8. The proposal to amend the personal attack rule to exempt all "uses" and to continue the Commission policy of not applying the Fairness Doctrine to "uses" was supported by 8 of the 9 parties filing comments on it. For the most part, those responding based their support on the argument that the Fairness Doctrine is inapplicable to Section 315 "uses." They stated that, as a corollary of the Fairness Doctrine, the personal attack rule cannot be applied to "uses" if the Fairness Doctrine cannot. We will consider the question of the general applicability of the Fairness Doctrine to Section 315 "uses" first.

⁴ *Cullman Broadcasting Co.*, 40 FCC 576 (1963) provides that:

Where the licensee has chosen to broadcast a sponsored program which for the first time presents one side of a controversial issue, has not presented (or does not plan to present) contrasting viewpoints in other programming, and has been unable to obtain paid sponsorship for the appropriate presentation of the opposing viewpoint or viewpoints, he cannot reject a presentation otherwise suitable to the licensee—and thus leave the public uninformed—on the ground that he cannot obtain paid sponsorship for that presentation. (Emphasis in original.)

However, in *Nicholas Zapple*, 23 FCC 2d 707 (1970), the Commission held that the Cullman Doctrine does not apply to the Zapple "political supporters" policy (a corollary of the Fairness Doctrine which provides "quasi equal opportunities" for candidates' supporters).

Comments

I. Applicability of the Fairness Doctrine to Section 315 "Uses"

A. *Statutory Language of the 1959 Amendments to Section 315*

9. Several respondents stated that the wording of the 1959 amendments⁵ to Section 315, indicates that Congress intended Section 315 "uses" and the Fairness Doctrine to be mutually exclusive. They quoted the portion of the amendment which states that the 1959 amendments were not to be "construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries and on-the-spot coverage of news events, from the obligation imposed upon them to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views of public importance." They pointed out that Congress thereby approved imposition of fairness obligations on the exempt programs, but apparently assumed that these fairness obligations do not attach to Section 315 "uses."

B. *Legislative History of the 1959 Amendments*

10. NBC, ABC and McKenna asserted that the legislative history of the 1959 Amendment to Section 315 supports continued exemption. NBC cited the comments of Senator Pastore (then Chairman of the Senate Communications Subcommittee and Manager of the Senate's bill to exempt news programming) which were quoted by the Commission in *Gloria Sage*, 63 FCC 2d at 150. Senator Pastore stated that the "standard of fairness applies to political broadcasts not coming within the coverage of Section 315 . . ." MAP disagreed that this supports our conclusion on *Sage* and quoted a letter from the Justice Department to Chairman Magnuson of the Senate Interstate and Foreign Commerce Committee:

Inclusion of such language (i.e., language exempting newscasts) in any amendment to Section 315 should not be construed as limiting the station's obligations to present conflicting views on public issues to the particular political situations covered in Section 315 of the Act, or those exempted via this legislation. S. Rep. No. 562, 86th Cong., 1st Sess. 19 (1959).

MAP stated that the Committee quoted the Justice Department's letter with approval in its report on S. 2424. NBC in reply comments asserted that MAP took the quotation out of context, and that the sentences preceding the one quoted by MAP stated:

This general fairness standard is presently applicable to political broadcasting *not coming within the coverage of Section 315* such as speeches by spokesmen for candidates, *as contrasted with the candidates themselves*. [Emphasis added; citations

⁵ The 1959 amendments exempted from equal opportunities obligations, bona fide newscasts, bona fide news interviews, bona fide news documentaries and on-the-spot coverage of bona fide news events.

omitted.] It would automatically be applicable to any additional types of political programming which might be exempted from the coverage of Section 315.

NBC contended that the letter indicates that the Justice Department understood and accepted the fact that Section 315 and the Fairness Doctrine are mutually exclusive.

C. *The Public's Right to Be Informed*

11. The Fairness Doctrine presently applies to appearances by candidates on those news programs which are exempt from the equal opportunities provision of Section 315(a).⁶ However, under *Zapple*, *supra*, the Commission held that when during an election campaign a licensee sells time to supporters or spokespersons of a candidate who urge the candidate's election, discuss the campaign issues, or criticize an opponent, then the licensee must afford comparable time to the spokesperson for an opponent. Known as the quasi-equal opportunities or political party corollary to the Fairness Doctrine, the *Zapple* doctrine is based on the equal opportunity requirement of Section 315. There was general agreement among respondents that the public's right to be informed on the issue of "who among all the candidates should be elected" is adequately covered by Section 315 "equal opportunities," the *Zapple* Doctrine and the present application of the Fairness Doctrine to exempt appearances. However, MAP contended that the Fairness Doctrine should be applied to all other controversial issues of public importance brought up in Section 315 uses. MAP cited *Gloria Sage*, in which Ellen McCormack, a presidential candidate, obtained low-cost, uncensored time to express her views on abortion. MAP claimed that, like Ellen McCormack, some candidates know they cannot win, but use their candidacy to advocate one issue thus paving the way for future elections. MAP asserted that when a candidate seizes upon one controversial issue, other candidates, knowing that the one-issue candidate will not win and not wishing to damage their own chances for election, may avoid taking any position on the issue. In reply comments, NBC stated that in an election the definition of the issue as "who among all candidates should be elected" does not depend

⁶ With respect to a broadcaster's news coverage of election campaigns, the Fairness Doctrine applies in the following ways. If a news program deals specifically with the question of why a particular candidate should or should not be elected, generally the issue presented is who among all the candidates should be elected. Each candidate constitutes a separate "view" on this issue. Since under the Fairness Doctrine licensees need only present significant contrasting views on controversial issues of public importance, the licensees have the discretion, in presenting contrasting views on such issues in their news programming, to select those candidates whom they consider significant. A candidate also may appear on news programs and discuss, in addition to viewpoints on why he or she should be elected, other controversial issues of public importance which may or may not be specifically related to his or her campaign. In these situations the general Fairness Doctrine principles cited above would apply, including the discretion which licensees have in the selection of spokespersons to present contrasting views. See *U.S. Labor Party*, 57 FCC 2d 1273 (1976); *American Independent Party and Eugene McCarthy*, 62 FCC 2d 4 (1976).

on whether the candidate campaigns on a single issue or multiple issues. NBC also commented that in *Gloria Sage* the issue of abortion, being a controversial issue of public importance, had already received balanced coverage. ABC and McKenna pointed out that since the Fairness Doctrine applies to news appearances by candidates, campaign issues are adequately covered without applying the Fairness Doctrine to "uses." Furthermore, ABC, NBC and McKenna commented that if an issue is important and controversial, it will normally be afforded treatment by broadcasters apart from appearances by candidates or their supporters not only because the Fairness Doctrine requires coverage of such issues, but also because good news and public affairs coverage would require it.

D. *Application of the Cullman Doctrine to Section 315 "Uses."*

12. Although we received extensive comments on the possible problems which could arise from the application of the Cullman Doctrine to Section 315 "uses" (See Paragraph 7, *supra*) we find it unnecessary to discuss them in view of our overall decision herein as to the applicability of the Fairness Doctrine to Section 315 "uses."

II. The Application of the Personal Attack Rule to Section 315

A. *The Relationship between the Fairness Doctrine and the Personal Attack Rule.*

13. NBC declared that, when the Commission adopted the personal attack rule, it stated:

The addition of [the personal attack rule] to the Rules serves to codify what has long been the Commission's interpretation of the personal attack aspect of the Fairness Doctrine. [In the *Matter of Amendment of Part 73 of the Rules to Provide Procedures in the Event of a Personal Attack*, 8 FCC 2d 721, 723 (1967).]

In that regard, ABC, Harte-Hanks, RAETA and NBC argued that, although the personal attack rule did not exist at the time of the 1959 amendments to Section 315, as a corollary of the Fairness Doctrine, the personal attack rule cannot apply to Section 315 if the Fairness Doctrine does not.⁷ MAP, in reply comments, disagreed, arguing that it is not necessary to "alter regulations for the sake of symmetry."

B. *Can Licensees Be Held Responsible under "Capital Cities" in View of the No-Control - No-Censorship Standard Articulated by the Court in WDAY, and the Commission in Sage?*

14. All respondents agreed that there is an inconsistency between the *Sage* and *WDAY* decisions on one hand and *Capital Cities* on the other. Most of the respondents stated that the conflict should be resolved by overruling *Capital Cities* and amending the personal

⁷ See Paragraph 9, *supra*, in which some parties argued that the statutory language of the 1959 amendments to Section 315 indicates that Congress did not intend the Fairness Doctrine to be applied to Section 315 "uses."

attack rule, thus ending all vestiges of the application of the Fairness Doctrine to Section 315 "uses." MAP, however, asserted that the Commission should resolve the conflict by overruling *Sage*, which MAP contends was based on the Commission's erroneous interpretation of the legislative history of the 1959 Amendments to Section 315.⁸ MAP argued further that *Capital Cities* does not conflict with the Court's holding in *WDAY* because the Court's purpose in holding licensees immune from libel actions arising from Section 315 "uses" was not to protect broadcasters but to guard against the threat of *de facto* censorship of Section 315 "uses" by broadcasters. Furthermore, MAP contends, the Supreme Court in *Gertz v. Welch*, 418 U.S. 323 (1974) ruled that a state could not impose liability without a fault standard. Therefore, argued MAP, it would have been unconstitutional to hold a broadcaster liable for Section 315 "uses." MAP pointed out that Fairness Doctrine obligations are not contingent on fault.

15. In opposition to MAP, ABC and NBC urged that the Commission overrule *Capital Cities*. NBC claimed that in applying the personal attack rule to a "use" in the *Capital Cities* case, the Commission wrongly distinguished *WDAY* on the grounds that the burden of the personal attack rule is slight compared with the threat of civil liability and is outweighed by the benefit to the public. To the contrary, stated NBC, a violation of the personal attack rule is punishable by forfeitures of up to \$20,000 (47 USC 503b). Harte-Hanks asserted that since the Supreme Court in *WDAY*, established licensee immunity for libelous material broadcast in "uses," it is unfair and anomalous for a station to incur administrative liability in a situation in which the Supreme Court has held it can incur no civil liability.

16. MAP contended that licensee lack of control over Section 315 "uses" is irrelevant to the question of Fairness Doctrine responsibilities since the Commission holds a licensee responsible for other programs, e.g., non-product advertisements, network programming and coverage of critical news events, which it did not produce and over which it has little control. NBC disagreed, stating that broadcasters have the right to prescreen and reject non-uses. NBC claimed that, as a matter of practice, it prescreens all materials to assure compliance with its policies. MAP contended that since the goal of the Fairness Doctrine is that the public be informed, the argument that the broadcasters should not be responsible for what they cannot censor is a logical non-sequitur since their inability to censor increases the public need to hear the other side of the issue. MAP asserted that once the public has been subjected to a one-sided presentation, only the licensee is able to assure that the public is informed of the other side; and it is the right of the public to be informed which the Fairness Doctrine is designed to insure.

17. NBC stated that *Capital Cities* erred in its assumption that the

⁸ See Paragraph 10, *supra*.

present application of the personal attack rule is of value in informing the public of both sides of controversial issues of public importance discussed during "uses." NBC contended that the political "spot" which led to its request for a declaratory ruling is illustrative of the confusion created by the application of the personal attack rule to campaign issues. In that "spot" a political candidate, Andrew Stein, claimed that as an assemblyman he had "fought" Bernard Bergman, a non-candidate, whose "nursing homes treated sick people like animals." NBC felt that Mr. Stein's remarks constituted a personal attack on Mr. Bergman and, in accord with *Capital Cities*, offered Mr. Bergman an opportunity to respond, but questioned the wisdom of applying the personal attack rules in this situation. NBC stated that since the issue raised in the spot was whether the candidate was the man best suited to the office, the natural spokespersons were the candidate's opponents. NBC contends that Mr. Bergman's interest was in vindicating his reputation, which is a private right that he could have pursued in court.

18. Several of those commenting noted that in *Capital Cities* the Commission stated that personal attacks on non-candidates are rare in Section 315 "uses." Harte remarked that since such attacks are rare, the creation of the proposed exemption would not upset the present balance. ABC contended that the infrequency of personal attacks by candidates on non-candidates is not, in itself, a valid reason for not exempting such attacks from the personal attack rule.

III. Language Change

19. CBS suggested that the language of the proposed amendment be modified to make it clear that attacks made during "uses" by candidates' spokespersons are exempt.

Discussion

20. In the *Notices* we stated that the no-censorship provision of Section 315 has become the primary basis for distinguishing Section 315 "uses" from those broadcasts to which the Fairness Doctrine is applicable. See *Fairness Report, supra*; *Gloria Sage, supra*. A licensee has no control whatsoever over the content of a "use" by a candidate. However, it not only has control over other broadcasts, but is responsible for the content of them. It follows, therefore, that there should be a distinction between broadcasts involving Section 315 "uses" and those to which the Fairness Doctrine is applicable.

21. The Fairness Doctrine is based upon a presumption of licensee discretion in dealing with controversial issues of public importance. The personal attack rule is one aspect of the Fairness Doctrine. Generally, when a personal attack is made on an individual or group during the discussion of a controversial issue of public importance, an adequate opportunity to respond must be offered by the licensee, with three exceptions as set out in Section 73.1920 (See Para. 5, *supra*). In our Report and Order adopting the personal attack rule we stated, "[t]his duty devolves upon the licensee, because other than in the case

of a broadcast by political candidates, the licensee is responsible for all material broadcast over his facilities.”⁹ Thus, when we adopted the personal attack rule we recognized that licensees had no responsibility for the material broadcast during Section 315 “uses.”

22. We see no merit in the assertion that because a licensee does not produce network programming, non-product advertising and critical news events, its lack of control over such programming is comparable to the no-censorship clause mandated by Section 315. As MAP points out, the Commission has made it clear that a licensee may not delegate responsibility for its Fairness Doctrine programming and is perfectly free to censor or refuse on the basis of content any programming other than a “use.” The mere fact that a licensee has little or no input into the production of programming does not relieve it of its responsibility for the content of what is broadcast. Moreover, the examples cited by MAP on this point are largely concerned with the licensee’s role in the production of programming; they do not go to the right and opportunity of the licensee to reject the program prior to broadcast. MAP’s comparison of network programming with “uses” is particularly inapposite. Although individual licensees may not delegate responsibility for programming to a network,¹⁰ networks are in a position to comply with the Fairness Doctrine, and frequently complaints regarding network programming are resolved at the network level. The concept that licensees are required to accept unbalanced programming from a network and are then forced to produce their own programming to provide balance is not substantiated by our experience. On the other hand, Section 315(a) prohibits censorship by the broadcaster of any “use” by a candidate. If a station has agreed to give or sell a candidate time, it may not cancel the program because of its content or require that the program content be changed. In addition, once the broadcaster has permitted a candidate to “use” its facilities, it must allow the candidate’s opponent “equal opportunities” if the candidate requests it. Furthermore, under Section 312(a)(7) of the Act, the broadcaster is required to grant “reasonable access” to federal candidates.

23. We see no reason for the Commission to change its belief, stated in *Sage* and the *Fairness Report*, that the statutory language and legislative history of the 1959 amendments to Section 315 indicate that Congress intended that Section 315 “uses” and the Fairness Doctrine be mutually exclusive. As to MAP’s contention that the Justice Department’s letter indicates that Congress intended that the Fairness Doctrine be applied to Section 315 “uses,” although the

⁹ *Amendment of Part 73 of the Rules to Provide Procedures in the Event of a Personal Attack or Where a Station Editorializes as to Political Candidates*, 28 FCC 2d 721, 723 (1967).

¹⁰ Stations having agreements with networks under which they cannot reject programs cannot be licensed under Commission Rules [Section 73.658(e)].

sentence quoted by MAP may seem to support MAP's position, the preceding sentences quoted by NBC clearly indicate that the Justice Department considered Section 315 "uses" and the Fairness Doctrine to be mutually exclusive. Furthermore, suggestions from the executive branch do not control the actions of the legislative branch, and even if the letter totally supported the application of the Fairness Doctrine to Section 315 "uses," it would not, in itself, be sufficient to overcome the statutory language and the other legislative history indicating that Congress intended the Fairness Doctrine to apply where Section 315 "uses" do not.

24. We reach now the question of whether the public's right to be informed on controversial issues of public importance should take precedence over the Commission's policy of not holding licensees responsible for "uses" since they have no control over them. We see little merit in MAP's contention that unless the Fairness Doctrine is applied to "uses" a candidate paving the way for future elections might attempt to use Section 315 to accomplish an unbalanced media blitz on a controversial issue of public importance. This is highly speculative reasoning. First, the time during which such a candidate would demand time is limited. Second, if the issue is such an important one that it would be used in such a manner by a candidate, it is very likely that licensees will be covering such issues in their overall programming. In any event, we have no evidence that there has been any one-sided presentation of a controversial issue of public importance in the manner envisioned by MAP. If such situations become prevalent in the future, we of course will revisit these matters at this time.

25. Regarding the application of the personal attack rule to Section 315 "uses," we are unpersuaded by MAP's assertion that "it is unnecessary to alter regulations to achieve symmetry" between the Fairness Doctrine and the personal attack rule. It is important to remember that the Commission did not adopt the personal attack rule to provide a vehicle for the vindication of individual reputations. This is a private matter to be resolved in the courts. The personal attack rule was adopted to further the purpose of the Fairness Doctrine, which is to assure that the public be informed of contrasting viewpoints on controversial issues of public importance. As noted in paragraph 23, above, we believe that the statutory language of Section 315, read in light of its legislative history, indicates that the Fairness Doctrine does not apply to "uses." Therefore, it would be inappropriate for us to apply the personal attack rule, which is a corollary of the Fairness Doctrine, to "uses."

26. We need not attempt to resolve the potential conflict between *Cullman, supra*, and *Zapple, supra*, in relation to their application to Section 315 "uses" since we intend to remove all application of the Fairness Doctrine from Section 315 "uses."

Conclusion

27. After carefully reviewing the comments and reflecting on our own experience, we have decided to continue our policy of regarding the Fairness Doctrine and Section 315 "uses" as mutually exclusive. We have also decided to bring the personal attack rule into conformity with that policy by amending the personal attack rule as set forth in Appendix A. In accordance with CBS' suggestion, although not adopting its proposed language, we have made a minor change in the language of the proposed new amendment to make clear that the exemption extends also to attacks made by non-candidates during "uses."

28. The specific changes in the rule are as follows: In Paragraph (b) words "be applicable" are changed to the words "apply to broadcast material which falls within one or more of the following categories." In Paragraphs (b)(1), (2), (3), and (4), the first word, "to," is deleted. In Paragraph (b)(1) "attack" is amended to read "personal attack" thus making the wording parallel to the wording in the other paragraphs. In the first sentence of Paragraph (b)(2), the words, "which are made" are deleted and "occurring during uses" substituted to make clear that any personal attack made during a "use" is exempt even if the person being attacked is not a candidate or associated with a candidate. The remainder of former Paragraph (b)(2) becomes new Paragraph (b)(3), adding the words "made during broadcasts not included in (b)(2)" to retain all the exemptions in former Paragraph (b)(2). Thus, as in the previous rule, attacks not made during "uses" are also exempt if they are made by legally qualified candidates, authorized spokespersons of legally qualified candidates or those associated with them in the campaign on other such candidates, their authorized spokespersons or persons associated with the candidates in the campaign. Paragraph (b)(4) remains the same except for the deletion of the word "to."

29. For the reasons set forth above for amending our rules on broadcasts involving personal attacks, we are making similar amendments to our rules on origination cablecasts involving personal attacks, as set forth in Appendix B.

30. Authority for the adoption of the amendments herein is contained in Section 4(i) of the Communications Act of 1934, as amended (47 U.S.C. 154[i]).

31. Accordingly, IT IS ORDERED, that effective September 7, 1979, Section 73.1920, as set forth in the Appendix, is amended. Further, IT IS ORDERED, that, effective September 7, 1979, Section 76.209 is amended as set forth in the attached Appendix.

32. IT IS FURTHER ORDERED, that this proceeding is TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO, *Secretary*.

ATTACHMENT: Appendix

NOTE: Rules changes herein will be covered by T.S.III(76)-12 and T.S.XI(76)-6.

Appendix

Parts 73 and 76 of Chapter I, Title 47, Code of Federal Regulations is amended to read as follows:

1. Section 73.1920(b) is amended to read as follows:

73.1920 Personal Attacks.

* * * * *

- (b) The provisions of paragraph (a) of this Section shall not apply to broadcast material which falls within one or more of the following categories:
 - (1) Personal attacks on foreign groups or foreign public figures;
 - (2) Personal attacks occurring during uses by legally qualified candidates.
 - (3) Personal attacks made during broadcasts not included in (b)(2) and made by legally qualified candidates, their authorized spokespersons, or those associated with them in the campaign, on other such candidates, their authorized spokespersons or persons associated with the candidates in the campaign; and
 - (4) Bona fide newscasts, bona fide news interviews, and on-the-spot coverage of bona fide news events, including commentary or analysis contained in the foregoing programs.

* * * * *

2. Section 76.209(c) is amended to read as follows:

§76.209 Fairness doctrine; personal attacks; political editorials.

* * * * *

- (c) The provisions of Paragraph (b) of this Section shall not apply to broadcast material which falls within one or more of the following categories:
 - (1) Personal attacks on foreign groups or foreign public figures;
 - (2) Personal attacks occurring during uses by legally qualified candidates.
 - (3) Personal attacks made during broadcasts not included in (b)(2) and made by legally qualified candidates, their authorized spokespersons or those associated with them in the campaign, on other such candidates, their authorized spokespersons or persons associated with the candidates in the campaign; and
 - (4) Bona fide newscasts, bona fide news interviews, and on-the-spot coverage of bona fide news events (including commentary or analysis contained in the foregoing programs, but, the provisions of paragraph (b) of this Section shall be applicable to editorials of the cable television system operator).

* * * * *