

2000 K STREET, N.W.
SUITE 600
WASHINGTON, D.C. 20006
TEL: 202-429-8970

www.lsl-law.com

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FCC Repeals Personal Attack and Political Editorial Rules

Pursuant to an order of the United States Court of Appeals for the District of Columbia Circuit, the FCC has repealed the personal attack and political editorial rules, which have for many years required TV and radio stations and cable television operators to provide air time for individuals to respond to personal attacks or political editorials. Prior to their repeal, the rules had long been under attack by the National Association of Broadcasters and the Radio-Television News Directors Association. The Court's action followed the FCC's failure to respond in a timely manner to the Court's request that the FCC provide adequate justification for the rules.

Under the personal attack rule, a broadcaster who presented views on a controversial issue and included an attack upon the honesty, character, integrity or like personal quality of an identified person or group, had been required to notify the person or group, provide a script or tape of the attack and offer the person or group the opportunity to respond over the station's facilities. The political editorial rule required a broadcaster who aired an editorial that endorsed or opposed a legally qualified candidate to transmit to the other qualified candidates for the same office or the candidate opposed in the editorial: a notice of the date and time of the editorial; a script or tape of the editorial; and an offer of reasonable opportunity for the candidate to respond.

In ordering the repeal of the rules, the Court acknowledged that the FCC could attempt to reinstate personal attack and political editorial rules, after initiating a rule-making proceeding soliciting public and industry comments. The FCC has indicated that it will "move forward promptly" to determine the public interest obligations of broadcasters, including whether the rules should be reinstated.