

Act into law, rejected a much more limited version of the Fairness Doctrine in that it eliminated from the bill as passed by the Senate a provision that would have applied only to a "public question to be voted upon at an election." It should also be noted, however, that in its requirement for "equal opportunity" the rejected language was more rigorous than the present doctrine which asserts a standard of reasonableness rather than strict equality.

The wording of section 315 remained unchanged until amended by the Communications Act Amendments of 1952. These amendments, as discussed below, did not change the language of section 315 with respect to its Fairness Doctrine implications.

VI. 1952 AMENDMENTS TO THE COMMUNICATIONS ACT

The 1952 amendments to section 315 added a new subsection (b) the purpose of which was to prevent licensees from charging more for political time than was charged for other types of programs. It derived from subsection (d) of an amendment offered on the floor of the House to S. 658, 82d Congress,⁵⁵ which read:

SEC. 11. That section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended to read as follows:

"FACILITIES FOR CANDIDATES FOR PUBLIC OFFICE

"SEC. 315 (a) If any licensee shall permit any legally qualified candidate for any public office in a primary, general, or other election, or any person authorized in writing by such candidate to speak on his behalf, to use a broadcasting station, such licensee shall afford equal opportunities in the use of such broadcasting station to all other such candidates for that office or to persons authorized in writing by such other candidates to speak on their behalf.

"(b) The licensee shall have no power to censor the material broadcast by any person who is permitted to use its station in any of the cases enumerated in subsection (a) or who uses such station by reason of any requirement specified in such subsection; and the licensee shall not be liable in any civil or criminal action in any local, State, or Federal court because of any material in such broadcast, except in case said licensee shall willfully, knowingly, and with intent to defame participate in such broadcast.

"(c) Except to the extent expressly provided in subsection (a), nothing in this section shall impose upon any licensee any obligation to allow the use of its broadcasting station by any person.

"(d) The changes made for the use of any broadcasting station for any of the purposes set forth in this section shall not exceed the minimum charges made for comparable use of such station for other purposes.

"(e) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section."

It is noted that, had this amendment to section 315 been enacted, it would have enlarged the "equal opportunity" provisions to include statements made by authorized spokesmen of candidates. The conference report recommended an amendment in the nature of a substitute which added the present subsection (b).⁵⁶ The report discussed this change as follows:

Section 11 of the House amendment would have amended section 315 of the Communications Act which relates to the utilization of broadcasting facilities by candidates for public office. The Senate bill did not propose to amend section 315.

⁵⁵ 98 Cong. Rec. 7415 (1952).

⁵⁶ H. Rept. No. 2426, 82d Cong. (1952).