

Colbert Super PAC Ad Rejected by Iowa TV Station - Can They Do That?

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Advertising from **Stephen Colbert's Super PAC** was rejected by Des Moines television station WOI-TV, based on its belief that these commercials would be confusing to Iowa voters. Colbert, the host of Comedy Central's the Colbert Report, has formed his own Political Action Committee to run ads during the upcoming Presidential election. The first ads ran in Iowa this past week - making fun of the amount of third party money that was being spent on political advertising in Iowa and urging voters to vote for "Rick Parry", with an "a" rather than "Rick Perry." WOI-TV, rejected them, while the spots ran on all other stations in Iowa's capitol city. Are there legal issues with this station deciding not to run these ads?

Not at all. The FCC has said many times that **broadcast stations are not "common carriers,"** meaning that they don't have to run all advertising time that advertisers want to run on their stations. Instead, stations pick and choose among the ads that are brought their way, and stations have an affirmative duty to reject ads that they feel are not in the public interest. So, while many may question whether these Colbert ads were outside of the norms applied to advertising in the public interest (as Colbert himself argued that the station runs many other ads as likely to confuse the public on many issues), the station has the absolute, non-delegable duty to decide on its own what is and what is not in the public interest - with the very narrow exception of candidate ads.

Ads by political candidates, as covered in our Political Broadcasting Guide, are the one exception to this general rule that stations have discretion about what ads they run. Stations must give Federal candidates "reasonable access" to their airwaves to buy advertising time in all classes and dayparts offered by the station, and candidates must also be given "equal opportunities" to buy time to respond to uses of the airwaves by competing candidates. Third party groups - those not officially connected with a political candidate - are not subject to the mandatory carriage rules (except to the limited extent that the Zapple doctrine, if it still exists, might apply to require the running of ads by supporters of a candidate to respond to ads by supporters of other candidates). In fact, third party ads put more responsibility on stations to review the content of these ads as they are theoretically liable for the content of third party ads (see our articles here and here). So WOI was perfectly within its rights to reject an ad by the Colbert Super PAC - no doubt a disappointment to the Colbert fans in Iowa who wanted a first look at the commercial, but legally an appropriate action nevertheless.

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