

Political Advertising and the Lowest Unit Rate

Background

- In the 45-day period prior to a primary or caucus and the 60-day period prior to a general or run-off election, federal law requires that political candidates receive discounts when purchasing airtime on a radio or television station.
- Congress enacted this regulation as part of the Federal Election Campaign Act of 1971.
- As a result, legally qualified candidates are entitled to a lowest unit rate (LUR) for advertising during these periods.
- This is the lowest advertising rate available, providing a candidate the benefit of all discounts offered to a commercial advertiser for the same class and amount of time, notwithstanding the frequency of the candidate's advertising.
- Legislation offered in response to the Supreme Court's campaign finance ruling – *Citizens United vs. Federal Election Commission* – unfortunately also includes changes to LUR.
- S.3295, introduced by Sen. Charles Schumer (D-NY), would for certain advertising that directly refers to federal candidates:
 - expand LUR beyond candidates to now include political parties and political committees.
 - greatly extend the time period by up to 180 days in which to calculate the advertising rate discount.
 - require priority placement of certain federal candidate and political entity ads by making them non-preemptible.
 - impose new compliance and reporting obligations on stations.

Local Broadcaster Position

- LUR changes have serious implications to local broadcasters.
- The proposed changes could penalize small business advertisers and would crowd out state and local candidates who are not entitled to the right of access enjoyed by federal candidates.
- These changes also raise serious questions under the First Amendment.
- In light of the significant advertising discounts federal candidates already enjoy, Congress should not mandate additional price reductions that could disadvantage local businesses and other advertisers.