

**PDC Staff Draft Recommendations on Proposed Rules 2018 – based on public comment**

**WAC 390-18-050 Commercial advertisers—Public inspection of records.**

(1) RCW 42.17A.005(11) defines "commercial advertiser" as any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise. This includes communications such as paid internet or digital advertisements, brochures, fliers and any other means of mass communications used for the purpose of appealing, directly or indirectly for votes or for financial or other support in any election campaign. **Any person that hosts political advertising or electioneering communications on a digital communication platform or other media is not required to maintain records on such advertising or communications if it has been purchased directly through another commercial advertiser, however the commercial advertiser that directly sells the advertising or communications to the original purchaser must provide the required information.**

(2) RCW 42.17A.005 (8)(b) defines "books of account," in the case of a commercial advertiser, as details of political advertising or electioneering communications provided by the advertiser, including the names and addresses of persons from whom it accepted political advertising or electioneering communications, the exact nature and extent of the services rendered and the total cost and the manner of payment for the services.

(3) Pursuant to RCW 42.17A.345, each commercial advertiser who has accepted or provided political advertising, as defined in RCW 42.17A.005(39), or electioneering communications, as defined in

Change in response to comments from Internet Association, Technet, BCAW, and WSAB.

Requires CAs to disclose information on ads that they sell directly to purchasers.

The CA that sells the ads directly to the purchaser would have access to the required information and is in the better position to maintain books of account.

Ad networks, exchanges and agencies would provide information on the ads they sell directly to purchasers that appear on third party platforms.

RCW 42.17A.005(22), must maintain documents and current books of account. Such information must be available for public inspection:

(a) In person during normal business hours;

(b) Provided electronically promptly upon request; or

(c) Available online in machine-readable format:

~~(i) on the advertiser's primary web site in machine-readable format; or~~

(ii) On a web site controlled by the advertiser, created for the purposes of publishing the information required by this section, if a link is prominently provided on the advertiser's primary web site directing users to the web site.

(4) Any person, without reference to or permission from the ((public disclosure)) commission, is entitled to inspect a commercial advertiser's political advertising or electioneering communications documents and books of account.

~~((2) No commercial advertiser shall be required to make available for public inspection))~~ (5)

Information regarding political advertising or electioneering communications ((prior to)) must be made available ~~as within twenty-four hours~~ of the time when the advertisement or communication has initially received public distribution or broadcast, and within twenty-four hours of any update or change to such information. Such records must be maintained for a period of no less than three years after the date of the applicable election.

~~((3))~~ (6) The ((documents)) information and books of account that must be maintained open for public inspection pursuant to RCW 42.17A.345(1) are:

Change in response to comments from Internet Association, WSAB, BCWA and Technet.

Allows CAs to publish documents and books of account on a secondary website created to publish required information.

The establishment of a secondary website should be accessible by a link connection from the advertisers' website.

Changes in response to comments from Google and BCWA.

Requires that information in books of account must be made available within 24 hours of initial publication, and any update to any required information must be made within 24 hours.

The 24-hour period is similar to the time period to disclosure political ads within 60 days of an election. RCW 42.17A.260

(a) The name of the candidate or ballot measure supported or opposed or the name of the candidate otherwise identified, and whether the advertising or communication supports or opposes the candidate or ballot measure;

(b) The name and address of the ~~((person))~~ person(s) who sponsored the advertising or electioneering communication;

~~((c))~~ (c) The total cost of the advertising or electioneering communication, or the initial cost estimate if total cost is not available upon initial distribution or broadcast, how much of that amount has been paid, as updated, who made the payment, when it was paid, and what method of payment was used; and

(d) Date(s) the commercial advertiser rendered service.

~~((4))~~ (7) In addition to subsection ~~((3))~~ (6) of this section and pursuant to RCW 42.17A.345 (1)(b), the documents and books of account open for public inspection must include the advertisement or communication itself, and a description of the major work components or tasks, as specified in (a) through ~~((f))~~ (g) of this subsection, that were required to provide the advertising or communications services.

(a) For printers, reproducers and other persons who provide commercial duplicating services: Quantity of items, item description, design, layout, typesetting, photography, printing, silk screening, binding.

(b) For mailing services: Quantity of items mailed, binding, stuffing, labeling, list or directory services, postage or delivery.

Changes in response to comments from Google, Internet Association, Technet, and BCAW

Clarify that the CA can provide a cost estimate if total costs are not paid when the political ad is published, and cost information can be updated as payment is received. Information can be timely updated if a 24-hour period.

(c) For broadcast media: Air time and number of spot advertisements. If the broadcaster provides additional services such as copy writing, talent, production, and tape reproduction, some type of record or notation evidencing the additional service must be available.

(d) For billboard or sign companies: Number and location of signs, design, printing and art work, erection/removal costs.

(e) For specialty or novelty commercial advertisers: Quantity of items provided, silk screening, design, printing and art work.

(f) For newspapers and other print media: Amount of advertising space and dates of publication. If the advertiser provides additional services such as design or layout, some type of record evidencing such additional services must be available.

(g) For digital communication platforms: An approximate description of the gender, age, and geographic locations ~~and of the~~ audiences targeted and reached that is collected by the commercial advertiser, and total number of impressions generated by the advertisement of communication.

(8) At the request of the PDC, each commercial advertiser required to comply with this section shall deliver to the PDC copies of the information described above.

Changes in response to comments from Internet Association, Google & Technet.

Requires CAs to maintain information on the gender, age, location of audience targeted, and total number of impressions generated by the political ad.

The total number of impressions generated can be updated on daily intervals.