

After getting Jimmy Kimmel suspended, FCC chair threatens ABC's *The View*

After pressuring ABC to suspend Jimmy Kimmel, Federal Communications Commission Chairman Brendan Carr is setting his regulatory sights on ABC's *The View* and NBC late-night hosts Seth Meyers and Jimmy Fallon.

Carr appeared yesterday on the radio show hosted by Scott Jennings, who describes himself as “the last man standing athwart the liberal mob.” Jennings asked Carr whether *The View* and other ABC programs violate FCC rules, and made a reference to President Trump calling on NBC to cancel Fallon and Meyers.

“A lot of people think there are other shows on ABC that maybe run afoul of this more often than Jimmy Kimmel,” Jennings said. “I’m thinking specifically of *The View*, and President Trump himself has mentioned Jimmy Fallon and Seth Meyers at NBC. Do you have comments on those shows, and are they doing what Kimmel did Monday night, and is it even worse on those programs in your opinion?”

In response, Carr discussed the FCC’s Equal Opportunities Rule, also known as the Equal Time Rule, and said the FCC could determine that those shows don’t qualify for an exemption to the rule.

“When you look at these other TV shows, what’s interesting is the FCC does have a rule called the Equal Opportunity Rule, which means, for instance, if you’re in the run-up to an election and you have one partisan elected official on, you have to give equal time, equal opportunity, to the opposing

partisan politician,” Carr said.

At another point in the interview, Carr said broadcasters that object to FCC enforcement “can turn your license in to the FCC, we’ll find something else to do with it.”

Bona fide news exemption

Carr said the FCC hasn’t previously enforced the rule on those shows because of an exemption for “bona fide news” programs. He said the FCC could determine the shows mentioned by Jennings aren’t exempt:

There’s an exception to that rule called the bona fide news exception, which means if you are a bona fide news program, you don’t have to abide by the Equal Opportunity Rule. Over the years, the FCC has developed a body of case law on that that has suggested that most of these late night shows, other than SNL, are bona fide news programs. I would assume you could make the argument that The View is a bona fide news show but I’m not so sure about that, and I think it’s worthwhile to have the FCC look into whether The View and some of these other programs you have still qualify as bona fide news programs and [are] therefore exempt from the Equal Opportunity regime that Congress has put in place.

The Equal Opportunity Rule applies to radio and TV broadcast stations with FCC licenses to use the airwaves. An FCC fact sheet explains that stations giving time to one candidate must provide “comparable time and placement to opposing candidates” upon request. The onus is on candidates to request air time—“the station is not required to seek out opposing legally qualified candidates and offer them Equal Opportunities,” the fact sheet says.

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