

Disclaimers; Political Advertising: Roadside billboards carrying political advertisements must carry disclaimers readable from the road; the party designing, printing and erecting such billboard and the source of the advertisement are each subject to the disclaimer requirement. Sec. 11.30 (2), Stats. (Issued to Sandra Hafenbraedl, September 16, 1976)

Your questions concern sec. 11.30 (2), Stats., providing:

"The source of all printed advertisements, billboards, handbills, sample ballots, paid television and radio advertisements and other communications intended for political purposes shall clearly appear thereon. In the case of a communication in support of or in opposition to a specific candidate the communication must contain the name of the candidate and be identified by the words "Paid for by" followed by the name of the individual, treasurer or other authorized agent of the candidate on whose behalf the communication is made. Communications made by a candidate who is serving as his or her own treasurer need contain only the words "Paid for by" followed by the name and address of the candidate. A voluntary committee or individual under s., 11.06 (7) shall also in every communication in support of or in opposition to a candidate affirm that the committee or individual is the sole source of the communication and that it is made without the encouragement, direction or control of the candidate who is being supported or opposed. In any other communication intended for political purposes the name of the group, committee or other sponsoring organization making the actual payment for the communication, its chief executive officer must be stated. An individual shall also state his or her name in making such communications. Communications under this section by a personal campaign committee may identify the committee or any bona fide subcommittee thereof. This subsection does not apply to the transmittal of personal correspondence which is not reproduced by machine for distribution. No person may publish or disseminate, or cause to be published or disseminated any communication in violation of this subsection."

The statements required to be affixed to political communications by this section will be referred to collectively as a "disclaimer." In your first two questions, you ask whether a roadside billboard is required by sec. 11.30 (2) to carry a disclaimer which is readable from the road.

Sec. 11.30 (2) requires that the source of all political communications "clearly appear thereon." That language indicates a legislative intent to require that a disclaimer be readable by those exposed to a political communication.

In addition, a disclaimer provides those exposed to a political communication with information which is significant for several reasons. Among them are: (1) The information aids the public in understanding the relationship between particular candidates and organizations and understanding the public positions taken by a candidate or organization; (2) The information aids the public in determining the weight that should be accorded a political communication; (3) The information protects a candidate from association by the voters with groups with whom he should not be associated and ideas which he does not espouse.

In the light of the apparent purposes of the statute and the statutory language requiring that the source "clearly appear" on the communication, the Board is of the opinion that a billboard alongside a road should carry a disclaimer which is readable from the road.

In your third question, you ask whether the "billboard company" is required to respond to inquiries about the source of a political communication on a billboard, where the disclaimer is not readable for some reason. In your fourth question, you ask whether the refusal of the company to respond to such inquiries imposes liability for violation of sec. 11.30 (2) on the company or on the source.

The final sentence of the statute prohibits anyone from publishing, disseminating or causing to be published or disseminated a communication failing to meet the disclaimer requirements of that section. The Board construes that sentence to mean that the responsibility for disclaimers in sec. 11.30 (2) rests with both the source of the communication and the party actually publishing or disseminating the communication. Therefore, the person who designs, manufactures, and erects a billboard containing a political communication (billboard company) and the source of the communication share the legal responsibility to maintain a readable disclaimer on a political billboard. If the disclaimer becomes unreadable for some reason the company and source share the duties to make good-faith efforts to repair or replace it, and, until it is repaired or replaced, to answer reasonable inquiries about the identity of the source. Where either of those duties are breached, both the company and source are liable for violation of sec. 11.30 (2), Stats.