

FCC Issues Fine for Online Contest Promoted On-Air

January 26, 2012

On January 19, 2012, the Federal Communications Commission (FCC or Commission) issued a Notice of Apparent Liability for Forfeiture (NAL) in the amount of \$22,000 against the licensee of six Los Angeles radio stations for failing to properly disclose the material terms of a contest in accordance with the FCC's contest rule. The NAL comes on the heels of another recent fine upheld by the Commission against a Massachusetts broadcaster for failing to promptly award a contest prize.

The FCC's contest rule requires broadcasters to "fully and accurately disclose the material terms" of contests broadcast on-air. Here, the licensee acknowledged that it did not disclose the contest's terms on-air but argued that it was not required to do so because the contest was conducted entirely online. The licensee did admit, however, that it promoted the contest on-air by encouraging listeners to submit entries on stations' websites. It was that promotion, the Commission found, that triggered the contest rule. The licensee ran afoul of that rule when it aired promotions for the online contest without the requisite on-air periodic disclosures of the contest's material terms. The Commission further noted that non-broadcast disclosures, such as providing contest rules online, may be considered in determining whether adequate disclosure has been made but may not be substituted for broadcast disclosures.

The licensee also was cited for failing to accurately disclose the contest's material terms because the contest rules specified conflicting entry deadline dates. The NAL, therefore, also serves as an apt reminder to broadcasters to carefully review contest terms before disclosing them.

Authors

Kathleen A. Kirby
Partner
202.719.3360
kkirby@wiley.law

Kathryne C. Dickerson
Partner
202.719.7279
kdickerson@wiley.law

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The Commission's recent enforcement actions signal its continued interest in broadcast contests. In response, broadcasters should carefully review the Commission's contest rule and make sure that they are in compliance when conducting contests. For more information or for a copy of our primer on the FCC's contest rule (including a contest rules template), please contact one of the Wiley Rein attorneys listed below.