Legal Issues in Program Sponsorship & Underwriting

Copywriting for non-commercial public radio station sponsors

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As a non-commercial station, you may NOT air advertising.

The Communications Act defines advertising as “program material broadcast in exchange for remuneration and intended to promote any service, facility or product of a for-profit entity.”
As a non-commercial station, you may NOT air advertising.

Although contributors to such stations may receive on-air acknowledgements, the Commission has held that such acknowledgements may be made for identification purposes only, and should not promote the contributors’ products, services, or businesses.
These FCC rules apply only to non-commercial broadcast radio and television stations.

So, the majority of this conversation does NOT apply to:

- internet-only stations
- commercial stations
- cable stations
- carrier current stations
“Remuneration” takes a variety of forms

- cash
- tickets for staff or to give away on air
- co-sponsorships / naming rights
- discounted admission for DJs
- product such as CDs, downloads, equipment
You cannot include

- Price information
  - no discounts, interest rates, ‘specials’, “ladies’ night”
- Calls to action
  - ‘come down’, ‘call for information’, ‘register now’
- Inducements to buy, sell, or lease
  - special gifts, bonus, buy one get one free, campus cash
- Qualitative/Comparative information
  - superlatives, awards, what makes A better than B
A value-neutral description of the business, its products and/or services.

- name and location of business/entity
- phone number and website address
- up to three brand names of products
- audio logograms that do not promote
There is no rule but...

The FCC noted credits that were :30 in length and broke other rules when issuing fines. They said, announcements more than 30 seconds long appear "excessive".

[Tri-State Inspirational Broadcasting Corporation, DA 01-2178, Enforcement Bureau, September 18, 2001]
Example One

Campus Book Store
Open 6 AM – 6 PM seven days a week
Books, workbooks, supplemental materials
General office supplies
Computers (MACs and PCs), printers, software, peripherals, storage devices
University logo items
Greeting cards and gifts
Support for programming comes from the Campus Book Store... with course materials, computers and supplies in stock every day. Campus Books also has university logo items, greeting cards, and gifts. The Campus Book Store, located downtown, across the street from the main entrance and online at campusbooks.com.
Example Two

University Theatre – in student union

Two screens available

First run and classic movies shown

Foreign films shown on Sunday afternoons

Snack bar with candy, popcorn & beverages

Discount with student ID

Encourage faculty and staff to come

Full list of films on website
Support for programming comes from the University Theatre in the student union... offering entertainment options for students, faculty and staff. Before each show, the snack bar serves popcorn, candy, and beverages. For a list of upcoming first-run, classic movies, and foreign films... university theatre dot college dot edu.
Support for programming comes from the University Theatre in the student union. This week, showing the new action adventure film The Last Witch Hunter and, on the classic screen, it’s a Back To The Future marathon. For a list of upcoming first-run, classic movies, and foreign films... university theatre dot college dot edu.
Support for programming comes from the University Theatre in the student union. This week’s foreign film is Europa ’51... Ingrid Bergman is a society wife whose child dies. Working among the poor and afflicted, she becomes both a saint and an outcast. For a list of upcoming first-run, classic movies, and foreign films... university theatre dot college dot edu.
CAUTION

Do your best to avoid having the client write copy.
Here’s what the client will write...

Support for programming comes from REI, your source for the best bikes in the Twin Cities. REI has the largest selection of bikes from Skuut, Novara, Cannondale and Electra... plus helmets, lights, clothing and locks. Need a bag? We’ve got ‘em... in cool colors, smart styles and durable materials that last long but don’t cost a bundle. When it comes to bikes, bags and accessories, look no further than REI... conveniently located on the corner of First and Main in St Paul, right next to Papa John’s.
Only the green text would be acceptable!

Support for programming comes from REI, your source for the best bikes in the Twin Cities. REI has the largest selection of bikes from Skuut, Novara, Cannondale and Electra... plus helmets, lights, clothing and locks. Need a bag? We’ve got ‘em... in cool colors, smart styles and durable materials that last long but don’t cost a bundle. When it comes to bikes, bags and accessories, look no further than REI... conveniently located on the corner of First and Main in St. Paul, right next to Papa John’s.
Support for programming comes from REI. The cycling department at REI has mountain, road, and urban bikes from Skuut, Novara, Carbondale and others, plus clothing, helmets, and locks. Messenger bags and cycling backpacks are also available in a variety of colors, designs and materials. REI... located on the corner of First and Main in St. Paul.
The Non-Profit Caveat

The FCC says the underwriting rules do not apply to non-profit organizations.

The IRS says that if a non-commercial station airs commercials, you may owe tax on that money.

Your for-profit clients don’t understand the rules. They see the difference as unfair.

Your listeners may not appreciate the commercial sound of the non-profit credits.
Restrictions on Fundraising for Noncommercial Entities

- Even though you can run what amount to commercials for nonprofit groups, fundraising ability for nonprofits is not unlimited.

- FCC rules prohibit fund raising for third party nonprofit groups which substantially alters or suspends normal programming:
  - No radiothon or telethon for third parties
  - Waivers have been granted (e.g. SC floods) but are rare

- Be sure that nonprofit entity really is nonprofit before relying on the exception.
Station Promotions

- One of the most confusing areas
- Stations want to do what commercial stations do with contests, concert promotions, etc.
- Need to remember that noncommercial station is not licensed in the same way that a commercial station is, so you can't run the same kinds of promotions.
Station Promotion — Problem Areas

- Remotes — remotes must be done based on station’s public interest judgment, not based on consideration. Announcements from remote can’t be overly promotional, but must be reasonably related to the event.

- Probably shouldn’t be paid by a for-profit for a remote

- Example of problem
  - This weekend, WXXX will broadcast from the grand opening of Campus Park Apartments, where new apartments are available for viewing, some with up to three bedrooms. The live remote begins at 11AM and continues until 3 with costume prizes, pumpkins and giveaways
Station Sponsorships

• Two cases suggest that stations cannot do commercial-like promotions for concerts and other events, even if the station is a “co-sponsor” with a for-profit entity

• Hispanic Broadcast Systems – promotion of festival in Old Town, where station received compensation for its broadcast promoting the event and the for-profit entities that would be there

• Isothermal Community College – a more troubling case where FCC questioned “co-sponsorship” where station promoted concert, got publicity and free tickets to give away
Lessons on Promotions and Giveaways

• Be careful, treat free stuff given to you for on-air giveaway like you treat an underwriting announcement – be boring...

• You can promote a concert or “other transitory events” in your service area if you think that your listeners want to know about it – if it’s in the ‘public interest’

• But once you get any sort of consideration (even tickets), cut out the promotional language

• Disclose sponsors on air – but without promotion
Questions?

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