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Spring Cleaning? The FCC Issues Another Underwriting Fine

By John Crigler*

After issuing no underwriting fines for the preceding two years, the FCC has issued six underwriting rulings in 2009. The latest ruling comes with an explicit warning that the FCC plans to get tough on underwriting violations.

Collectively, the 2009 rulings impose \$40,000 in fines. The most recent ruling imposes the largest fine on the smallest entity – a \$20,000 fine on LPFM station KXPW-LP, Georgetown, Texas. The fine stems from a complaint from another noncommercial station. Like the FCC's other 2009 underwriting rulings, this ruling relates to broadcasts that occurred several years ago. The announcements in question were broadcast between July and September, 2003. The complaint was filed in November 2003.

Only 8 announcements were involved, but they were aired "several thousand times" over a three-month period. The FCC disregarded other announcements based upon the broadcaster's representation that underwriters were non-profits. Although the FCC did not establish any hard-and-fast limit to the length of underwriting announcements, it noted that several of the announcements at issue exceeded 30 seconds in length, and took length into account in finding a violation.



The announcements are riddled with violations of the basic taboos on calls to action, inducements to buy, comparative or qualitative language, and price information, but here are some of the more subtle aspects of the ruling.

- Announcements were deemed to invite business patronage even when the call to action was phrased in a subjunctive rather than imperative mood. For example, “You can stop by one of our two locations, or you may call ...”
- Announcements were deemed to be comparative or qualitative when they touted the expertise of the underwriter’s employees, rather than the superior qualities of its goods or services. For example, “Our dedicated friendly staff loves children ...”; “ASE certified master technicians”; “Anyone who touches your loan file has more than ten years experience in the mortgage and banking industry.”
- Atmospheric descriptions of business premises were found to be promotional. For example, “provides a safe environment for you and your child”; a “fun family environment”; “you can relax in their clean and comfortable waiting room.”
- Hyperbole was found to be qualitative. For example, “a unique eatery,” their “world-famous pepperoni rolls.”
- An award was considered an invitation to patronize. For example, “named America’s number one water park by the Travel Channel.”
- Aspirational language was found to be promotional when it contained a claim of superior service. For example, “Having the character and integrity to do what we say we’re going to do”; “Christian Brothers takes pride in their honest and reliable service.”



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The ruling came with the following warning to all noncommercial stations: “In future cases, violations of the type encountered here may result in even harsher sanctions than we propose in this case.”

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