



1300 NORTH 17th STREET, 11th FLOOR
ARLINGTON, VIRGINIA 22209

OFFICE: (703) 812-0400
FAX: (703) 812-0486
www.fhhlaw.com
www.commlawblog.com

KATHLEEN VICTORY
(703) 812-0473
VICTORY@FHHLAW.COM

July 5, 2012

By Hand Delivery

Theresa Z. Cavanaugh, Acting Chief
Investigations and Hearing Division
Enforcement Bureau
Federal Communications Commission
Room 4-C330
445 12th Street, SW
Washington, D.C. 20554

Re: Compliance Report Submission
DA 11-1144; EB-10-IH-3794
Station KHSL-TV, Chico, California – Fac. Id. 0006-1923-97
Catamount Broadcasting of Chico-Redding, Inc.

Dear Ms. Cavanaugh:

Catamount Broadcasting of Chico-Redding, Inc., by and through its attorneys, and pursuant to the *Order*, DA 11-1144, in the above-referenced enforcement proceeding, hereby submits its 12-month Compliance Report. As demonstrated in the attached, the licensee has complied with the terms of the *Order* by taking the required steps as set forth in *Order*.

Should there be any questions regarding this matter, please contact undersigned counsel.

Respectfully submitted,

By: 
Kathleen Victory
Counsel to Catamount Broadcasting
of Chico-Redding, Inc.

Enclosures

cc (w/encs): Anjali K. Singh, Assistant Chief
Melissa Marshall, Esquire
(via electronic mail)

1 Year Compliance Report

Catamount Broadcasting of Chico-Redding, Inc.

Enclosures:

Officer's Compliance Certificate
Basis for Certification
Exhibit

Officer's Compliance Certificate

I, Theodore T. Horton, an officer of Catamount Broadcasting of Chico-Redding, Inc. ("Catamount"), licensee of station KHSL-TV, Facility Id. No. 24508, Chico, CA, have personal knowledge that Catamount has established operating procedures intended to ensure compliance with the terms and conditions of the Consent Decree adopted July 7, 2011, and the Commission's licensee-conducted contest rule, 47 C.F.R. § 73.1216. An accompanying statement sets out the basis for this certification. Catamount has utilized these procedures since the previous Compliance Report was submitted and is not aware of any instances of non-compliance.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on July 5, 2012.



Theodore T. Horton
President/CEO
Catamount Broadcasting Of Chico-Redding, Inc.

Basis for Certification

The accompanying Officer's Compliance Certificate states that Catamount Broadcasting of Chico-Redding, Inc. ("Catamount"), licensee of station KHSL-TV, Facility Id. No. 24508, Chico, CA ("Station"), has established operating procedures intended to ensure compliance with the terms and conditions of the Consent Decree adopted July 7, 2011 (DA 11-1145) and the Commission's licensee-conducted contest rule, 47 C.F.R. § 73.1216.

The basis for this certification is as follows:

- ***Station Contests Compliance Memorandum.*** The Compliance Memorandum attached at Exhibit A has been distributed to all Station employees materially involved in the broadcast of programming. The Compliance Memorandum explains the Commission's licensee-conducted contest rule and sets forth detailed Station procedures applicable to avoiding violations thereof.
- ***Training.*** Following distribution of the Compliance Memorandum, all Station employees involved in the broadcast of programming or who assist with any stage of planning and executing licensee-conducted contest received appropriate training with respect to compliance with the licensee-conducted contest rule and Station procedures with respect thereto.
- ***Compliance.*** Catamount has complied with the Consent Decree and the Commission's licensee-conducted contest rule.

Exhibit A

Station Contests Compliance Memorandum

Station Contests
Compliance Memorandum

August 1, 2011

Introduction. This memorandum provides guidance to station employees regarding the Federal Communications Commission (FCC)'s rules on promoting and conducting station contests advertised to the public (*e.g.*, “listen and win” contests, free ticket giveaways, etc.). A “contest” governed by the FCC rules is defined as “a scheme in which a prize is offered or awarded, based on chance, diligence, knowledge or skill, to members of the public.”¹ This memorandum does not address lotteries or in-house, unadvertised contests.

I. Planning a contest

Before any mention of the contest is made on air, ALL details of the contest’s operation and promotion should be carefully planned, with direct involvement and ongoing supervision by station management. The details to be planned include not only the WHO, WHAT, WHEN, WHY and HOW items that must be included in promotions (see below), but also other practical considerations, such as:

- Internal handling of the contest (*e.g.*, who will maintain lists of entrants, who will participate in the selection of winners, what safeguards against cheating will be in place, what record-keeping will be maintained and by whom, when will each step take place, etc.); and
- Preparation and review of contest-related materials (*e.g.*, promotional announcements, entry forms, rules to be posted on website or otherwise distributed, release forms, print ads, etc.).

Particular attention should be paid to the precise mechanics of how winners will be selected, how prizes to be awarded will be obtained, and how those prizes will be awarded.

II. Promoting the contest

Stations are obligated to “fully and accurately disclose the material terms of the contest” to their listeners, starting with the very first time the audience is instructed how to enter or participate. A

¹ 47 C.F.R. § 73.1216, Note 1(a).

contest description cannot be false, misleading, or deceptive with respect to any material term. A “material term” is one which concerns the operation of, or participation in, a contest. Although material terms may vary widely depending on the exact nature of the contest, promotional materials and announcements should provide the answers to all of the following questions:

- WHO is eligible to participate?
- WHAT do they have to do to participate (including the number of entries permitted)?
- WHEN do they have to do that by, WHEN will the winners be selected and told, and WHEN will prizes be distributed?
- WHY would they participate—*i.e.*, what is the prize that would cause them to enter (including the basis for any valuation of the prize)?
- HOW will winners be selected (including tie-breakers)?

The contest description should also provide any other information necessary for a listener to understand and participate in the contest. If the contest involves elements of prize and chance, promotions should include a statement that no purchase is necessary. Don’t forget to include sponsorship IDs when appropriate—particularly if an advertiser is providing consideration (prizes, venue, etc.) in return for on air mentions in contest-related announcements.

ALL material terms of the contest should be read on air at least once per day for the duration of the contest. The entire list of rules need not be broadcast every time the contest is mentioned – the FCC has held that a “reasonable number of announcements is sufficient.” The goal is to ensure that any audience member who may be interested in participating in the contest is given clear and reasonable notice of any and all terms and conditions which might affect his or her decision to participate.

Disclosures must be made ON AIR. Merely making copies of the rules available on a website, on the entry blank, or at the station’s studio is not enough. That said, copies of the rules should also be made publicly available to walk-in visitors at the station’s main studio, at all locations where entry forms are available, to anyone who sends in a self-addressed, stamped envelope, and to those who call the station.

In order to avoid any potential confusion or misstatements concerning contest rules, on-air references to the contest should be carefully scripted and read verbatim (or pre-recorded.)

III. Conducting the contest

Follow—in precise detail—the steps laid the planning stage. Do not vary from those steps in any way. Make sure all personnel involved in any way in the conduct of the contest are fully apprised of all operational details. Station staff must make every effort to administer each contest precisely as advertised. Violations of this rule include: failing to collect all entry forms, using arbitrary or inconsistently applied standards in judging entries, failing to award prizes promptly, and urging listeners to stay tuned to win a prize which is not available.

Avoid altering the terms of a contest once it has begun. Careful planning *before* the contest is begun will ideally avert any need to make changes mid-way through the contest. If circumstances prevent compliance with the plan, any change to accommodate those circumstances should be cleared with station management and implemented only after all practical effects of the change have been fully considered and addressed. In this case, the rules should become *more* favorable to contestants (this is particularly relevant when a station must exchange a prize), and the modified rules must be immediately publicized, giving potential contestants ample opportunity to learn of the change(s). Again, rule changes should be avoided, because they are likely to be perceived as favoring some contestants over others.

It is essential that the rules be administered fairly. The broadcast of a rigged contest violates the Communications Act, and penalties are severe. Contest rigging includes providing secret assistance to contestants, predetermining winners, or using persuasive or intimidating means in a contest purporting to be determined by intellectual knowledge or skill.

The fact that a station conducts a contest in partnership with an outside company (*e.g.*, a station advertiser) does *not* absolve the station from liability for deceptive, misleading or rigged contests. Station staff must ensure that co-sponsors comply with the FCC's rules (for example, in contests where entry forms are to be collected at multiple locations by employees of those locations—who will then deliver them to the station—station staff should take steps to insure that all participating entities and their employees comply with these procedures to the letter).

Reliance on non-station partners is particularly dangerous when the station is counting on a non-station partner to provide a unique prize otherwise unavailable to the station. The nature of a contest's prize is, of course, a major inducement to contestants to participate, particularly when the prize is unusual. If, at the conclusion of the contest, a unique prize turns out not to be available from the non-station partner, the station will have a major problem on its hands. If the prize to be awarded is not something that the station would be able to secure on its own on relatively short notice, station staff should insist that non-station partner provide the prize to the station *before* the contest is begun, so that the station will have absolute confidence that the prize will be available when needed.

IV. Record-keeping

For EACH contest, maintain a comprehensive and organized file containing:

- a complete set of the rules/eligibility requirements;
- copies of ALL promotional materials distributed with respect to the contest;
- copies of all promotional announcements broadcast on air (both scripts and audio recordings, including unscripted mentions), together with records verifying the times and dates on which each announcement was broadcast;
- a list of all winners, and verification of their selection;
- documentation describing the prize(s) awarded, including receipts reflecting the value of the prize(s);
- “receipt-release” forms from each winner confirming receipt of the prize. (If the prize is worth more than \$600, the receipt should include the winner's social security number to permit the station to complete and file IRS Form 1099-MISC and related Form 1096.)

V. Additional Matters

If a station plans to use a caller's voice, either live or taped, it is imperative to obtain the party's permission unless it is clear from the circumstances that the station is likely to broadcast the call. Stations planning to air a recording of a caller's voice in association with a contest or subsequent advertising should receive a written release, which should be kept in the station's contest file.

Receipt forms may also include provisions granting the station the right to use winner's name and image in promotional materials.

Do not stage contests involving elements that could prove dangerous to participants (or others) or create problems for the public at large.

Prizes must be delivered promptly. The FCC has indicated that "unreasonable delay" violates its rules.

Remember:

- Plan thoroughly
- Execute as planned
- Keep detailed records

Also bear in mind the "sore loser" factor—someone is always going to have a motivation to complain, so stations must be scrupulous in the above matters.