

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of	)	
	)	
RADIO BROADCASTERS COALITION	)	MB Docket No. 15-52
	)	
PETITION FOR CLASS WAIVER	)	
OF THE COMMISSION'S SPONSORSHIP	)	
IDENTIFICATION REQUIREMENT	)	

**COMMENTS OF THE MEDIA INSTITUTE  
IN SUPPORT OF THE  
PETITION FOR CLASS WAIVER OF THE COMMISSION'S  
SPONSORSHIP IDENTIFICATION REQUIREMENT**

April 13, 2015

THE MEDIA INSTITUTE  
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The Media Institute<sup>1</sup> appreciates this opportunity to comment on a Petition before the Federal Communications Commission (“FCC” or “Commission”) seeking a limited Class Waiver of the Commission’s Sponsorship Identification (“SID”) Requirement.<sup>2</sup> The Petition asks the FCC to enable a certain class of radio stations broadcasting music and sports programming to comply with the FCC’s Sponsorship Identification Requirement by creating an alternate mechanism that relies on both on-air announcements and enhanced information available on a station’s website. The Petition sets forth detailed criteria for stations seeking to operate under such a waiver, which would have the effect of making more information available to listeners than currently is required.

“Sponsorship” in this context refers to record companies or others making payments or providing other considerations to radio stations in exchange for airplay or other benefits. This practice is perfectly legal, provided that such commercial relationships are disclosed to listeners. The FCC’s regulations requiring such disclosure

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<sup>1</sup> The Media Institute is a nonprofit foundation specializing in communications policy issues. The Institute exists to foster values such as a competitive media and communications industry, sound communication policy, freedom of speech, a strong First Amendment, and excellence in journalism.

<sup>2</sup> *In the Matter of Radio Broadcasters Coalition Petition for Class Waiver of the Commission’s Sponsorship Identification Requirement*, FCC MB Docket No. 15-52 (filed Nov. 26, 2014).

stem from the days of “payola” in the 1950s and 1960s, when disc jockeys were secretly paid by record labels to play selected records. This practice was responsible for artificially increasing the popularity and sales of such records, unbeknownst to listeners. The ensuing disclosure requirements were an effort to bring heightened transparency to such practices for the benefit of listeners, in essence bringing promotional arrangements between record companies and radio broadcasters out into the open. The proposed waiver would in no way repeal the existing prohibition against payola; the ban on secret payments would remain fully in effect.

Rather, the waiver sought by the Radio Broadcasters Coalition would take the transparency afforded by disclosure requirements to a new level, allowing broadcasters to provide more information than ever by utilizing their websites as readily available sources of sponsorship information. The use of the Internet to provide enhanced information to radio listeners strikes us as a highly desirable and beneficial practice for a number of reasons, as outlined below. In fact, this practice seems long overdue, given the overwhelming popularity of both the Internet and the mobile devices that provide ready access to the Internet’s vast resources.

**More Information Is Better.** One of the guiding principles of The Media Institute, especially where freedom of speech and the First Amendment are involved, has long been that more information is better than less information. In the free speech context, a robust marketplace of ideas that encourages more speech is a far better remedy than government regulation for correcting shortcomings in speech. Likewise in the SID context, more information about sponsorship arrangements can only be of greater benefit to listeners.

According to the Radio Broadcasters Coalition’s Petition, stations operating under the waiver would make available online enhanced information that would include:

the name(s) of the sponsor(s); the name(s) of program(s) in which sponsored programming appears; a list of the applicable artists and songs the station played, and/or sports teams the station featured, that are affiliated with the companies that supplied consideration; the type of consideration received by the station (*i.e.*, direct payment; on-air appearances; access to songs before formal release; prize materials such as concert tickets, CDs/downloads, merchandise or sports tickets, *etc.*; whether consideration was provided on an exclusive or non-exclusive

basis; and the type of consideration the station agreed to provided in return (*i.e.*, increased airplay, contests, sports coverage, *etc.*).<sup>3</sup>

This strikes us as a wealth of information, most of which is not currently available to consumers – nor required by the FCC – under the current on-air sponsorship disclosure requirements. Such a heightened degree of transparency can only be beneficial to listeners while taking the original intent of the SID requirements to a new level.

**Information Across Multiple Platforms Is the Norm.** There is ample precedent for consumer information being made available across media and on multiple platforms – and for consumers being directed to seek more detailed information at another media location. Indeed, it is now the rule – rather than the exception – that an advertisement for a product or business directs consumers to a company’s website for more information. The same is true for almost every such communication people have in the 21st century, with consumers regularly being directed online to obtain additional facts.

The FCC itself has promoted this multi-media trend in the Internet age. The Commission now requires television stations to upload their public files, including files pertaining to political advertising, to an FCC-administered online database.<sup>4</sup> In December 2014, the Commission voted unanimously to propose extending that requirement to cable and DBS systems and broadcast and satellite radio outlets.<sup>5</sup> In November 2014, the Commission voted unanimously to propose allowing radio and television broadcasters to post contest rules on the website of a station or its parent company, provided the station broadcasts the full Web address when it promotes the contest on-air.<sup>6</sup>

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<sup>3</sup> *Id.* at 3-4.

<sup>4</sup> *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensure Public Interest Obligations; Extension of the Filing Requirement for Children’s Television Programming Report (FCC Form 398)*, MM Docket Nos. 00-168, 00-44, Second Report and Order, 27 FCC Rcd 4535 (2012) (“*TV Online Public File Order*”).

<sup>5</sup> *In the Matter of Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees, Notice of Proposed Rulemaking*, FCC MB Docket No. 14-127 (adopted Dec. 17, 2014).

<sup>6</sup> *In the Matter of Amendment of Section 73.1216 of the Commission’s Rules Related to Broadcast Licensee-Conducted Contests, Notice of Proposed Rulemaking*, FCC MB Docket No. 14-226, RM-11684 (adopted Nov. 21, 2014).

As the Commission stated in 2011: “Information required by FCC policy to be disclosed to the public should, over time, be made available online.”<sup>7</sup> The Commission went on to explain in 2012: “The evolution of the Internet and the spread of broadband Internet access has made it easy for stations to post material online and for many consumers to find information online.”<sup>8</sup> The Commission took note of “the online revolution that has improved the delivery of products and services across our economy....”<sup>9</sup> There is no valid reason not to follow these forward-looking statements by modernizing the SID requirements as well.

**Enhancing the Listener Experience.** The proposed waiver would also have the salutary effect of enhancing the consumer’s experience of listening to music or sports programming. Following a three-week “listener-education campaign,” an on-air disclosure announcement would air at least once per day in rotating day parts between 6 a.m. and 7 p.m. Listeners thus would be subjected to fewer SID disruptions throughout the day. In reality, not every listener craves information about sponsorship arrangements or enjoys having music or sports programming interrupted with such announcements. Even listeners who did desire more detailed information would have a better listening experience, since they would be free to access that information online at their convenience. They could even get that information online simultaneously while they were enjoying their music or sports, if they wished to do so.

**Conclusion.** The Media Institute supports the proposal of the Radio Broadcasters Coalition to make Sponsor Identification Disclosure information available on radio station websites. The proposed waiver for music and sports programming would make substantially more information available to listeners. The information would be available online and readily accessible by consumers, consistent with current usage patterns and expectations in this digital era. The FCC has endorsed the concept of moving information online generally, and has taken steps recently to require or allow that migration in specific instances. Making SID information available online would benefit

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<sup>7</sup> *The Information Needs of Communities: The Changing Media Landscape in a Broadband Age*, Federal Communications Commission (June 2011) at 7, available at <http://www.fcc.gov/info-needs-communities-download>.

<sup>8</sup> *TV Online Public File Order*, 27 FCC Rcd at 4537.

<sup>9</sup> *Id.*

consumers significantly, both by providing them with more detailed information about sponsorship arrangements, and by giving them a better listening experience with fewer disruptions. For all of these reasons we urge the FCC to grant this Petition for Class Waiver.

Respectfully submitted,

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