iHeartMedia, Inc. (“iHeart”) hereby submits these Reply Comments to further encourage the Federal Commissions Commission (“FCC” or “Commission”) to modernize the licensee-conducted contest rule (the “Contest Rule”)\(^1\) as proposed by the Commission in the Notice of Proposed Rulemaking in the above-referenced proceeding (the “NPRM”).\(^2\) In the NPRM, the Commission proposes to give broadcasters the option of posting material contest terms online and disclosing their location on-air, rather than announcing complete material terms on-air as required under the current Contest Rule. iHeart supports this commonsense revision to the Contest Rule, but also urges the Commission to avoid unnecessarily increasing the regulatory burdens on broadcasters in the course of revising the Contest Rule to reflect the contemporary digital marketplace.

I. COMMENTERS UNIFORMLY AGREE WITH THE FCC THAT THE AGENCY SHOULD MODERNIZE THE CONTEST RULE TO ALLOW BROADCASTERS TO HARNESS THE POWER OF THE INTERNET.

Commenters in FCC proceedings are rarely unanimous in their support for (or opposition

\(^1\) 47 C.F.R. § 73.1216.

to) a particular proposal set forth by the Commission. Here, however, every single one of the fifteen parties that filed Comments in response to the NPRM agreed that the Contest Rule is ripe for modernization. Now nearly 40 years old, the Contest Rule does not reflect the way in which consumers obtain and process information in the 21st Century. When the Contest Rule was adopted in 1976, the Internet was no more a reality than flying cars. In stark contrast, today the Internet has transformed the manner in which consumers receive and expect to be able to access information, with 99% of Americans enjoying access to some form of broadband Internet access. Indeed, a new study indicates that 54% of today’s consumers over age 12 rank the Internet as the information medium “most essential” to their lives. The essential nature of the Internet is also reflected in the ever-increasing number of devices that consumers buy in order to access it – 71% of today’s consumers own a smartphone, and 49% own a tablet computer. As these trends aptly demonstrate, 21st Century consumers expect to be able to access information when and where they want it. Allowing broadcasters to meet their disclosure obligation by

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3 See, e.g., Comments of Alpha Media LLC, et al. at 1 (“Certain aspects of the Contest Rule no longer correspond to consumer expectations and the manner in which detailed information is most commonly disseminated in the 21st Century.”) (“Alpha, et al. Comments”); Comments of Beasley Media Group, Inc., et al. at 2 (“…any revisions to the Contest Rule ultimately adopted by the Commission should be sufficiently robust to account for changes in technology and the realistic expectations of modern audiences….”) (“Beasley, et al. Comments”); Comments of The Coalition for Modernization of the FCC Contest Rule at 1 (“…the Coalition strongly supports bringing the Contest Rule into the 21st century by allowing broadcasters to satisfy their obligation to disclose material contest terms by posting the information online.”) (“Coalition Comments”); Comments of The Named State Broadcasters Associations at 3 (“…the State Associations generally support the Commission’s proposal to further modernize the broadcast disclosure provisions contained in the Station Contest Rule…..”).

4 See Comments of iHeartMedia, Inc. at 5 (“iHeart Comments”).


6 Id. at 49, 55.
posting material contest terms online will modernize the Contest Rule and bring it in line with consumer expectations in the digital age.

Allowing greater reliance on online disclosures would also increase the effectiveness of the Contest Rule and improve listeners’ experiences. On-air material terms disclosures are disruptive to both broadcasters and listeners. Broadcasters must interrupt programming or commercial breaks to air material terms announcements, which are often quite lengthy. Listeners consider such announcements to be negative, undesirable, or simply boring content, causing them to change the channel or tune-out. By driving away audience, on-air material terms disclosures defeat the goals of the Contest Rule, which is designed to increase consumers’ awareness of the material terms of licensee-conducted contests. In contrast, written online disclosures will improve consumer access to material terms by allowing consumers to process material terms at their own pace and at a time and place of their choosing. Of those commenters addressing these issues in their opening submissions, all stand in agreement on these issues.7

7 See, e.g., iHeart Comments at 9; Beasley, et al. Comments at 2-3 (“It is extremely difficult for the public to follow and retain the specifics of lengthy material terms disclosures. …[T]he public has an understandable tendency to tune out when it hears voluminous contest details on air. … [Online disclosures] will allow [the public] to review and comprehend these terms at their own pace, rather than being dependent on the on-air announcer.”); Coalition Comments at 3 (“By allowing broadcasters to post contest terms online, … [c]onsumers will benefit because they will be able to review contest terms at any time and in a manner that permits greater comprehension.”); Comments of Hubbard Broadcasting, Inc. at 3 (“Online disclosure also is likely to help listeners better understand a contest’s terms. … Lengthy broadcast disclosures clutter the airwaves and drive listeners away. Putting contest terms online would minimize these losses and allow for better programming flow.”) (“Hubbard Comments”); Comments of The National Association of Broadcasters at 3-4 (“Paving the way for online distribution of information also will help the FCC meet the goals of its contest rules. … Current contest rule announcements … interrupt programming … and may even encourage ‘some of the audience’ to ‘turn to another channel or station during these disclosures.’”) (citation omitted) (“NAB Comments”).
II. MODERNIZATION OF THE CONTEST RULE SHOULD NOT RESULT IN ADDITIONAL REGULATORY BURDENS FOR BROADCASTERS.

As iHeart and others discussed in their opening Comments, the FCC should avoid unnecessarily increasing the regulatory burdens on broadcasters in the course of revising the Contest Rule. For example, the revised Contest Rule should permit broadcasters to provide a general narrative description of the online location of material terms (e.g., “Visit the contest tab on WMZQ dot com”), rather than requiring articulation of a complete, direct website address (e.g., “h-t-t-p-s colon back slash black slash w-w-w W-M-Z-Q dot com back slash contests back slash florida hyphen georgia hyphen line hyphen tickets back slash 3-4-0-5-4-2.”). The latter formulation is awkward, confusing, time-consuming, inconsistent with the manner in which website addresses are typically stated, and unnecessary given consumers’ familiarity with website addresses and how to enter them into their browsers. In addition, there is no need for

8 iHeart Comments at 11-15; see also, e.g., Comments of National Public Radio, Inc. at 3 (“NPR urges the Commission to make changes to the Contest Rule in a manner that ensures this flexibility by minimizing recordkeeping and other compliance requirements that could burden public radio stations without serving the public.”) (“NPR Comments”).

9 iHeart Comments at 14; see also, e.g., Beasley, et al. Comments at 5 (“The Commission should not dictate how website addresses are announced. Instead, the Commission should give stations flexibility and discretion to direct their audiences to websites containing contest terms so that users can easily find the terms for a particular contest.”); Hubbard Comments at 4 (“Requiring the broadcast of the ‘complete, direct website address’ is … onerous, particularly if the terms reside on an internal page of a station website. Consumers in today’s media marketplace are Internet-savvy and know how to find information they are seeking online.”); Comments of Entercom Communications Corp. at 7 (“Entercom … recommends that the FCC provide licensees with flexibility on how to convey [website] information to audiences because the complete, direct website might not be the best way to convey this information in a natural and user-friendly format this is easy for audiences to remember.”) (“Entercom Comments”); NAB Comments at 8 (“NAB recommends that stations announce the website where material contest terms can be found in a manner that clearly indicates its location. For example, station KXYK could announce that ‘detailed information is available at KXYK.com/contests’…. Announcements such as these provide clear and sufficient direction for consumers and easily lend themselves to frequent on-air references.”).
the Commission to revise the definition of “material terms.” 10 The terms 11 that the current Contest Rule requires disclosure of provide a clear roadmap for broadcasters to follow to ensure that they do, in fact, disclose the appropriate information, and there is no suggestion that the current definition of “material terms” is under-inclusive. 12 Finally, given the wide variety of contests, broadcasters should retain the flexibility to determine the format of online material term disclosures, provided that such disclosures are clear and conspicuous.

III. THE COMMISSION SHOULD NOT REQUIRE DISCLOSURE OF CONTEST WEBSITE ADDRESSES WITH EACH MENTION (OR EACHADVERTISEMENT) OF A CONTEST.

The submissions of two parties suggest that the Commission should revise the Contest Rule to require broadcasters to state that material terms are available online in connection with each promotion or advertisement of a contest. 13 As the opening comments of iHeart and all other

10 See NPRM ¶ 12.

11 Specifically, “how to enter or participate, eligibility restrictions; entry deadline dates; whether prizes can be won; when prizes can be won; the extent, nature and value of prizes; basis for valuation of prizes; time and means of selection or winners; and/or tie-breaking procedures.” 47 C.F.R. § 73.1216, n. 1(b).

12 See, e.g., iHeart Comments at 11; see also, e.g., Alpha, et al. Comments at 5 (“Joint Commenters do not believe that any refinement to the definition [of material terms] is necessary. … The definition, in place for decades, is clearly articulated such that licensees have no difficulty determining which terms are ‘material’ and must be disclosed. The definition also ensures that the most important information about a contest is conveyed to consumers and, moreover, is consistent with many state law requirements.”); Entercom Comments at 6 (“Entercom proposes that the FCC maintain the current definition of ‘material terms’ as enumerated in the current version of the Contest Rule. The material terms definition has been part of the contest rule since its inception in 1976 and licenses are accustomed to how the definition is applied.”).

13 See Brand Activation Association Comments at 5 (stating that “[d]irecting consumers to a website link in each contest advertisement provides many advantages”); see also Named State Broadcasters’ Associations Comments at 5, 11 (proposing that the new rule “exempt passing references to a contest from any requirement to announce the contest terms’ web address” and that a station be required to announce the web address “each time” it “affirmatively promotes the contest (i.e., does more than mention the contest in passing)”)). Even these commenters do not
commenters that address the issue demonstrate, however, such a requirement would be counterproductive and unduly burdensome given the frequency with which stations may promote contests.\textsuperscript{14} Under the current Contest Rule, a station need only air material terms announcements “periodically,” and not each time they mention a contest.\textsuperscript{15} However, as the opening comments explain, a station may advertise or promote a contest multiple times in \textit{one hour}.\textsuperscript{16} Requiring

embrace the Commission’s suggestion that it should require stations to broadcast a website in connection with each mention of a contest. \textit{See} NPRM ¶ 13. The Brand Activation Association’s comments suggest a website mention in each “advertisement,” and the Named State Broadcasters Associations request an exemption for “passing references” to a contest.

\textsuperscript{14} As iHeart discussed in its opening Comments, contests are generally discussed by radio stations on-air in one of three ways. First are the material term disclosures mandated by the FCC’s current Contest Rule, which generally consist of a produced announcement containing all material terms of a contest and lasting approximately sixty seconds. Next are contest promotions in which a station publicizes a contest and invites its audience to participate via a promotional spot, akin to a commercial advertisement. These contest promotions generally last fifteen to thirty seconds each, and are generally scripted or recorded in advance. Finally, there are briefer on-air mentions, which are typically unscripted and sometimes last much less than fifteen seconds. Mentions occur in a variety of contexts, including, in radio, very frequently over a song intro (e.g., “Coming up after Katy Perry, your chance to win Ariana Grande tickets!”). iHeart Comments at 9-10; \textit{see also}, Alpha, \textit{et al.} Comments at 7 (“There is simply no need for a station to remind consumers that material terms are available on their websites every time a contest is mentioned.”); Entercom Comments at 8 (“The NPRM proposes that licensees broadcast the website address where contest terms are available each time a licensee mentions or advertises a contest. This requirement is burdensome and unnecessary.”); NPR Comments at 5 (“Requiring licensees to announce the direct website address where contest terms are posted every time a contest is mentioned would be burdensome…”).

\textsuperscript{15} 47 C.F.R. § 73.1216 note 2 (material terms “need not be enumerated each time an announcement promoting the contest is broadcast”).

\textsuperscript{16} \textit{See} iHeart Comments at 9-10; \textit{see also}, \textit{e.g.}, Entercom Comments at 9 (“There are various types of mentions and advertisements for contests (short promos and long advertisements) and it does not make sense to require the inclusion of the website information in all of these mentions and advertisements.”); NAB Comments at 7 (“A shift to online disclosures, however, should not lead the Commission to now require stations to ‘broadcast the website address where contest terms are available \textit{each time they mention or advertise} a contest.’ On-air talent may ‘mention’ a contest multiple times each hour in passing, as a lead-in to a song or television program, or in conversation with a co-host.”); Alpha, \textit{et al.} Comments at 7 (“Stations commonly conduct multiple contests on any given day during any given month. The number of times contests and mentioned or advertised therefore can consume a sizeable amount of air-time.”).
stations to state the online location of material contest terms every single time a contest is advertised or promoted on-air would create clutter, disrupt the listener’s experience, and prove impractical for brief mentions that occur during song intros (which are typically only a few seconds long). Such a requirement could also have the unintended adverse consequence of incentivizing broadcasters to decrease the number of times that they mention or promote a contest, thereby decreasing listener engagement and harming broadcasters’ promotional efforts. And, the question of whether a contest mention constituted an advertisement or promotion (rather than a passing reference) could create unnecessary confusion and mire stations and the Commission in disputes regarding whether a given mention required inclusion of a website reference or not.

IV. CONCLUSION

iHeart applauds the Commission for moving further into the digital age by proposing to modernize the Contest Rule. As demonstrated herein and in iHeart’s opening Comments, allowing broadcasters to harness 21st Century technology by providing material contest terms via online disclosures is squarely within the public interest.

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Respectfully submitted,

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