Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.1216 of the Commission’s Rules Related to Broadcast Licensee-Conducted Contests

MB Docket No. 14-226

COMMENTS OF IHEARTMEDIA, INC.

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Christopher Cain
Vice President & Associate General Counsel
iHeartMedia, Inc.
200 E. Basse Road
San Antonio, TX 78209
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COMMENTS OF IHEARTMEDIA, INC.

iHeartMedia, Inc. (“iHeart”) hereby submits these Comments in response to the Notice of Proposed Rulemaking in the above-referenced proceeding (the “NPRM”) adopted by the Federal Communications Commission (“FCC” or “Commission”) on November 21, 2014.1 In the NPRM, the Commission proposes a commonsense amendment to the licensee-conducted contest rule (the “Contest Rule”).2 Specifically, 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. iHeart applauds the Commission for moving further into the digital age by allowing broadcasters to take advantage of 21st Century technology to provide this important information to the public.

I. INTRODUCTION AND SUMMARY

As the Commission has recognized in many contexts, the Internet has profoundly changed the way in which the public accesses information. Like no mode of communication before it, the Internet allows consumers to get information when, where, and how they want it.

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2 47 C.F.R. § 73.1216.
The shift to online communication has taken place in a relatively short time period, and certain of the legal requirements that apply to broadcasters have not yet been updated to account for these developments in technology and consumer behavior.

In the NPRM, the Commission wisely proposes to further embrace 21st Century technology and allow broadcasters to comply with their obligation to disclose material contest terms by making such terms available on the Internet and announcing their online location on-air. As described below, amending the Contest Rule to allow written online disclosures will enable broadcasters to supply material terms in a more easily accessible manner, and will align with both consumer preferences and practices for getting information through the Internet and the Commission’s ongoing efforts to utilize the power of online communications to provide more and better information to the public. Online disclosures will also free up valuable air time for additional programming content and advertising that consumers value. At the same time, the Commission should take care to avoid inadvertently increasing broadcasters’ regulatory burden by imposing additional mandates that unnecessarily expand the scope of the current Contest Rule. And the choice of whether to post material terms online or continue to comply with the Commission’s existing Contest Rule should, as the Commission proposes, be left up to individual stations.3

II. THE FCC SHOULD MODERNIZE THE CONTEST RULE, ALLOWING BROADCASTERS TO MOVE FORWARD INTO THE 21ST CENTURY DIGITAL AGE

The rule governing on-air material term disclosures was adopted in 1976, long before the advent of the Internet. 40 years ago, broadcasters had one principle means of reaching their audiences en masse – over the air. That interaction was necessarily one-sided, with broadcasters necessarily determining when a song was played, a contest mentioned or promoted, or material

3 See NPRM ¶ 14.
terms disclosed. Now, broadcasters have another powerful means of reaching their audiences –
the Internet. And thanks to the Internet, the interaction between broadcasters and their audiences
is no longer one-sided. Consumers can listen to music or access content when and where they
choose. They can quickly and easily interact with DJs, other on-air personalities, and station
staff. Indeed, they can simply click a link and read about the material terms of a contest at their
own pace, at a time and place convenient for them.

The Commission recognizes the importance of the Internet and has made broadband
accessibility and functionality a top priority. The Commission’s efforts in this regard have
achieved unprecedented success. Some form of broadband is now available to almost 99% of
the U.S. population and the divide between digital-haves and digital have-nots is
“diminishing.” The FCC has also recognized the importance of updating “decades-old

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6 Id. at vi (recording an increase from 32% to 47% for broadband use for older Americans). Although the Commission recently redefined “advanced” broadband capability to constitute broadband services with higher upload and download speeds, this redefinition applies only to “advanced” broadband. See 2015 Advanced Services Report, ¶¶ 45, 54. In addition, it was based on the Commission’s finding that such higher speeds were necessary to accommodate the growth of data intensive uses such as HD video; consumers need not have access to such higher speeds in order to access the type of text-based information at issue in this proceeding. See id. ¶ 1, 54 (noting that the “advanced” broadband discussed in the report “differs from the term ‘broadband’ in other contexts,” that the higher speeds were appropriate because of the focus on “advanced” broadband, and that services offering lower speeds nevertheless qualify as basic broadband services in other contexts).
requirements” to “harness[ ] current technology” and advance the public interest.7 Accordingly, the FCC has increasingly moved online in other contexts. For example, broadcasters are required to post annual Equal Employment Opportunity Public File Reports on their websites, file a host of applications online via CDBS, and maintain online public files.8

III. ALLOWING GREATER RELIANCE ON THE INTERNET TO COMMUNICATE MATERIAL TERMS IS CONSISTENT WITH CONSUMER EXPECTATIONS IN THE DIGITAL AGE

The Commission’s proposal to amend the Contest Rule to allow broadcasters to disclose material contest terms online would advance the goals of the Contest Rule while updating the rule to conform to consumer expectations in the digital age. As the NPRM rightly notes, adoption of this proposal would be “consistent with the Commission’s recognition that the Internet is an effective tool for distributing information to broadcast audiences” and the “dramatic changes in the way that consumers access information” that have occurred since the Contest Rule was adopted.9

7 In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, MM Docket No. 00-168, Second Report and Order, FCC 12-44 (2012). Moreover, the Commission recognized in a 2011 report that “with the media landscape shifting as fast as it has been, some current regulations are out of sync with the information needs of communities and the fluid nature of modern local media markets.” The Information Needs of Communities: The Changing Media Landscape in a Broadband Age, Federal Communications Commission, at 6 (June 2011), available at http://www.fcc.gov/info-needs-communities#download. Based on that conclusion, the report urged “greater transparency by government and media companies” to “empower consumers.” Id. at 9. Specifically, the report recommended that “[i]nformation required by FCC policy to be disclosed to the public should, over time, be made available online.” Id.

8 The online public file requirement currently applies only to television broadcasters. However, in December 2014 the FCC issued a Notice of Proposed Rulemaking proposing to require broadcast radio stations, satellite radio operators, and cable and DBS operators to post their public inspection files to the FCC’s online database. In the Matter of Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees, MB Docket No. 14-127, Notice of Proposed Rulemaking, FCC 14-209 ¶ 2 (2014).

9 NPRM ¶ 9.
Today, the Internet is nearly ubiquitous. From 2007 to 2012 alone, home broadband use for Americans aged 65 and older rose 15%, and the number of people aged 16 and older who “use the Internet at any location” grew 18%. Consumers are accustomed to going online to find information and content. For example, 89% of consumers use Internet search engines to inform their purchasing decisions, while 93% use the Internet to compare options for consumer electronics. Consumers use the Internet for their most highly valued decisions as well, including decisions about products for children and healthcare. These trends demonstrate that Americans trust and have come to rely on Internet sources for a wide range of information, and that allowing broadcasters to post written material terms online would align with contemporary consumer behaviors and expectations.

Written online material term disclosures would allow consumers to access information on-demand rather than having to wait for periodic broadcast disclosures, affording broadcasters the flexibility to supplant archaic on-air disclosures that are not suited to contemporary audiences. Modern consumers, enabled by 21\textsuperscript{st} Century technology, expect to be able to instantly access information by merely logging on to a website, conducting a Google search, or using an app on their smart phone. In addition, licensee-conducted contests frequently involve an online component, such as online entry or online voting. Making material terms readily available online, where consumers can access them at the time of entry or voting, simply makes


\footnotesize{12} Id. at 8-9.
sense from a pragmatic and efficiency standpoint.

The Commission can ensure that it is “easy for consumers to locate” material terms online by requiring a clearly labeled link or tab on broadcasters’ websites.\textsuperscript{13} Today, many stations post a link to contest information on their homepage or, alternatively, include a “tab” on their homepage on which a visitor can click and be taken to a separate page that includes contest information. Allowing broadcasters to use either a link or a tab would accomplish the Commission’s goals while limiting disruption of users’ experiences and requiring minimal alteration of broadcasters’ current practices.\textsuperscript{14} Broadcasters, particularly radio broadcasters, also frequently run multiple contests simultaneously. Permitting licensees that do not wish to post links to multiple contests on their homepages to consolidate rules for all contests on a dedicated, easily accessible and clearly labeled webpage will ensure ready access by consumers to important contest information, consistent with the Commission’s stated goals.\textsuperscript{15} In addition, because broadcasters use contests as a form of promotion, whether solely to generate station goodwill or to increase listener exposure to a non-station co-sponsor, they have a natural incentive to ensure that contest-related information is readily accessible to website visitors. Finally, broadcasters should be required to maintain material contest terms online until the contest has concluded (\textit{e.g.}, a winner has been selected), and a consumer should not have to

\textsuperscript{13} NPRM ¶ 11.

\textsuperscript{14} Provided that the link or tab appears prominently on a station’s homepage and includes a label that makes clear its relation to contest information, the precise name and location should be left to broadcasters’ discretion. For example, a station may choose to house material contest terms under a tab entitled “Contests” or “Win.” \textit{See, e.g.}, http://www.washfm.com/main.html (last visited Feb. 10, 2015).

\textsuperscript{15} By contrast, requiring broadcasters to post a direct link to each contests’ material terms on their homepages could consume a significant amount of space and be confusing given the many other categories of information and advertising included on station homepages.
IV. ALLOWING GREATER RELIANCE ON ONLINE DISCLOSURES WOULD INCREASE THE EFFECTIVENESS OF THE CONTEST RULE AND IMPROVE LISTENERS’ EXPERIENCES

Online disclosure would free up airtime for additional programming and advertising that listeners want to hear, benefiting both consumers and broadcasters. Due to the volume of information that must be conveyed in the broadcast announcements required by the current Contest Rule, material term disclosure spots run, on average, for sixty seconds. If a station runs multiple contests at once or also airs announcements containing material terms that generically apply to all station contests, it may devote many minutes of airtime per day to complying with the current Contest Rule.

These on-air material term disclosures are disruptive to both broadcasters and listeners. Radio licensees in particular must interrupt programming or commercial breaks to broadcast material terms announcements, some of which may be complex. Listeners often consider such announcements to be negative, undesirable, or simply boring content and therefore change the channel or tune-out. This not only drives away audience, but also defeats the goals of the Contest Rule, which is designed to increase consumers’ awareness of the material terms of licensee-conducted contests.

As iHeart noted in its comments in support of the Petition for Rulemaking filed by Entercom Communications Corp. that prompted this proceeding, there is empirical data to support the notion that the broadcast of material term disclosures diserves the purpose of the Contest Rule.\(^{17}\) A study conducted by Media Monitors indicates that audience erosion is twice

\(^{16}\) See NPRM ¶ 11.

Using Arbitron PPM data, Media Monitors analyzed audience loss during material terms announcements for a Katy Perry contest. The announcements were broadcast by Sacramento radio station KDND(FM) over a two week period. The study found that KDND lost more than a quarter of its net listening audience during commercial breaks containing a material terms announcement for the contest. In contrast, KDND lost only 13% of its net audience during commercial breaks that did not contain the material terms announcements. iHeart anticipates that stations would experience far less audience loss during on-air announcements directing listeners to the online location of written material terms because such disclosures would be much shorter, and therefore far less disruptive to the listening experience, than current material terms disclosures. Updating the Contest Rule to allow for online disclosure is therefore both a practical modernization and a pragmatic means of ensuring that important information related to contests effectively reaches consumers.

Online disclosure will also improve consumer access to material terms. As discussed above, consumers expect to be able to find information they need and want online, and to be able to access such information when and where they have time to review and process it. Even when consumers do happen to catch a broadcast disclosure and listen to it, they may receive little benefit from it. The disclosure may be too quick or contain too much information for consumers to process fully, or consumers may not hear the full disclosure because they are distracted or otherwise occupied. In contrast, written online disclosures allow consumers to process material terms at their own pace and at a time and place of their choosing.

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18 The study was attached to the comments of Clear Channel Communications, Inc. in support of Entercom’s petition for rulemaking, and is included for the Commission’s convenience as Exhibit A hereto.
V. AT THE SAME TIME, THE FCC SHOULD NOT INCREASE THE BURDENS IMPOSED ON BROADCASTERS WITH RESPECT TO CONTEST DISCLOSURES BEYOND THOSE CONTAINED IN THE EXISTING RULE

A. The Commission Should Retain the Current Definition of “Material Terms.”

There is no need for the Commission to revise the definition of “material terms.” Simply put, the Commission got this issue right the first time. The terms required to be disclosed by the Contest Rule are clearly delineated in the rule and represent exactly the information consumers need to know in order to assess whether they are interested in entering the contest, whether they are eligible to do so, and how to do so. They also provide a clear roadmap for broadcasters to follow to ensure that they do, in fact, disclose the appropriate information. Furthermore, there is no suggestion that the current definition of “material terms” is under-inclusive, and therefore no basis to require that additional information be disclosed.

B. Multiple Daily Disclosures Will Ensure That Consumers Are Well-Informed About Where to Find Important Contest Information, Including Information About Any Changes to Material Contest Terms.

iHeart shares the Commission’s desire to ensure that consumers are well-informed about where they can find important information about licensee-conducted contests. However, due to the frequency with which stations may mention contests on-air, requiring broadcasters to state that material terms are available online in connection with each and every mention would be counterproductive and unduly burdensome. Contests are generally discussed by radio stations

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19 See NPRM ¶ 12.

20 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).

21 See NPRM ¶ 13.

22 See id.
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!”).

Under the current Contest Rule, a station may air material term announcements one or two times a day. However, a station may air a contest promotional spot or mention a contest multiple times in one hour. For example, DC-area iHeart stations may briefly mention major station contests four times in an hour, air one recorded thirty-second promo per hour, and run several fifteen-second contest promos a day. The time spent promoting or mentioning contests increases with each separate contest run by the station at a given time. Requiring stations to mention the online availability of material contest terms every single time a contest is discussed on-air would create clutter and disrupt the listener’s experience, and would be impractical for brief mentions that occur during song intros that themselves are 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. Furthermore, with respect to the briefer, unscripted mentions by DJs, inadvertent lapses would inevitably occur, potentially
increasing the burden on the Commission to enforce aspects of a rule that would be unnecessary to ensure consumer awareness of the online availability of material contest terms.

Nevertheless, iHeart is, as noted above, sensitive to the Commission’s desire to ensure that listeners frequently receive information about where to find material terms for licensee-conducted contests. Accordingly, we propose that broadcasters who choose to rely on online posting be required to announce the website address where material terms for its contests can be found three times per day in rotating dayparts, excluding the overnight hours (12:00 a.m. to 6:00 a.m.) when listening is lowest, during all times when a station is running contests. This would allow stations to inform their audiences three times per day about where to find material terms for all station contests, ensuring that individuals who are interested in entering station contests know where to go to find further information about any station contest they might wish to enter. Broadcasters could pre-record and schedule these announcements as they currently do the longer material term announcements, providing an efficient way to ensure and verify compliance. Informing listeners of the online availability of material contest terms three times daily would accomplish the Commission’s goal of “better informing the public of material contest information” without unduly burdening broadcasters.

In addition, the Commission rightly expresses an interest in ensuring consumer awareness of any changes to the material terms of a contest. Although broadcasters make every effort to avoid changing a material contest term, occasionally such changes are unavoidable (frequently through no fault of the broadcaster). Requiring broadcasters to indicate that the material terms

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23 As discussed above, iHeart proposes that broadcasters be allowed to house material terms on a webpage accessible to consumers via a link or tab on a station’s homepage.

24 NPRM ¶ 13.

25 See id.
have changed within 24 hours of the change will ensure that consumers receive timely
information about changes. Thereafter and until the entry period for the affected contest closes,
broadcasters should be required to announce that the rules have changed or been updated three
times per day (either within the three-times daily announcements they are already making or in
separate announcements) and direct audience members to the website where they can review the
updated material contest terms.

C. The Commission Should Permit Broadcasters to Inform Listeners About
Where to Find Contest Information Online Using a Simple Narrative
Description Rather than Requiring the Complete, Direct Website Address.

The Commission should not require broadcasters to state the complete, direct website
address where material terms are located on-air.26 Providing a general narrative description of
the website location (e.g., “Visit the contest tab on WMZQ dot com”) will direct consumers to a
website in a clearly understandable manner. A rule requiring a complete, direct website address,
by contrast, could be interpreted to require broadcasters to articulate a website address as “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.” Such a formulation is
awkward, confusing (and would be nearly impossible for a listener to remember), time-
consuming, and inconsistent with the manner in which website addresses are typically stated
today.27 Indeed, consumers are already familiar with website addresses and how to enter them
into their browsers. In fact, entering “https://www.WMZQ.com” is not even necessary. Simply
typing “WMZQ” or “WMZQ.com” into a browser automatically directs a user to WMZQ’s

26 See id.

27 Take, for example, businesses with a trade name consisting entirely of a website address, such
as “Webuyanycar.com”. Broadcast advertisements for We Buy Any Car do not direct consumers
to “h-t-t-p-s colon back slash back slash w-w-w we buy any car dot com.” Instead, ads direct
consumers to “we buy any car dot com.”
website. In addition, if the Commission requires broadcasters to include a clearly identified link or tab on their homepages that directs users immediately to a page with material contest terms, there will be no need for the Commission to require broadcasters to provide the complete, direct website address in on-air announcements.

**D. Broadcasters Should Retain Flexibility Regarding the Format of Online Material Term Disclosures.**

Radio and TV stations conduct a wide variety of contests. In February alone one local Washington, DC iHeart station was simultaneously conducting one “pay your bills” call-in contest, one contest giving away free gym memberships, one contest offering a complimentary wellness assessment and vitality plan, eight separate contests for concert tickets, a cupcake giveaway contest, and a contest in which the winner receives advance tickets to a special screening of a soon-to-be released move. As with prizes, the entry methods for these contests can vary widely. Some contests may require entrants to simply fill out an online form, while others will ask consumers to call a station to win, while still others will require listeners or viewers to submit a video. Given this variety, imposing a particular format for online material term disclosures would be difficult. Rather than attempt to fit a square peg into a round hole, the Commission should require only that the disclosures be clear and conspicuous. Otherwise, the format of the disclosures should be left up to broadcasters.

**VI. CONCLUSION**

iHeart appreciates the opportunity to submit these Comments and urges the Commission to modernize the Contest Rule by affording broadcasters the option to post material terms online in conjunction with on-air announcements indicating where to find them. As demonstrated

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29 See NPRM ¶ 10.
herein, such an update is squarely within the public interest and would allow broadcasters to harness the power of the Internet to better serve the needs of their audiences.

Dated: February 18, 2015

Respectfully submitted,

/S/ Christopher Cain
Christopher Cain
Vice President & Associate General Counsel
iHeartMedia, Inc.
200 East Basse Road
San Antonio, TX 78209