In the Matter of
Amendment of Sec. 73.1216 of the Commission's Rules Concerning Contest Rules Disclosures by Radio Stations

MB Docket No. 14-226

To: The Commission

COMMENTS OF NATIONAL PUBLIC RADIO, INC.

Introduction

Pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, National Public Radio, Inc. ("NPR") hereby files its Comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding concerning the Commission rules governing broadcast licensee-conducted contests (the "Contest Rule").¹

NPR is a non-profit membership corporation that produces and distributes noncommercial educational programming through more than 900 public radio stations nationwide. In addition to broadcasting award winning NPR programming, including All Things Considered® and Morning Edition®, NPR affiliated stations are significant producers of local, regional, and national news, information, and cultural programming. NPR also operates the Public Radio Satellite Interconnection System and provides representation and other services to its Member stations.

¹ Amendment of Section 73.1216 of the Commission's Rules Related to Broadcast Licensee-Conducted Contests, Notice of Proposed Rulemaking, 29 FCC Rcd 14185 (2014) ("NPRM").
I. NPR Supports Amending Section 73.1216 Of The Commission’s Rules To Allow Broadcast Licensees To Satisfy Their Obligation To Disclose Material Contest Terms By Making Such Terms Available In Writing On A Publicly Accessible Internet Website

NPR supports amending the Contest Rule to allow broadcast licensees to fulfill their obligation to disclose material contest terms by making such terms available in writing on a publicly accessible Internet website. This amendment will allow licensees to “fully and accurately disclose the material terms” of contests in a manner that gives licensees greater flexibility and reflects contemporary public radio audience habits.²

NPR and NPR member stations frequently host contests as a way of deepening audience engagement and as a way of generating content for online or broadcast distribution. Stations also use contests during membership drives as a means of encouraging station support. Local public radio stations have cultivated strong online presences and their audiences have become accustomed to visiting station websites or social media platforms to engage with stations and obtain program content, news, and other information. As the public radio audience is already accustomed to accessing station websites for a variety of reasons, it makes sense for the public to expect to visit station websites to obtain detailed contest information. Making contest rules available online also enables listeners to carefully review material terms of contests. In fact, online, written disclosures can be more effective than periodic broadcast announcements because they allow broadcasters to provide more complete, detailed contest information that listeners can read at their convenience.

²See 47 C.F.R. § 73.1216.
II. The Commission Should Amend The Contest Rule In A Manner That Minimizes Recordkeeping And Other Compliance Requirements That Could Burden Public Radio Stations Without Materi ally Advancing The Public Interest

NPR believes the Commission should avoid imposing too many specific requirements for how licensees present contest disclosures posted on Internet websites. The proposed changes to the Contest Rule are designed to "provide broadcast licensees with greater flexibility." 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. In particular, NPR believes the Commission should avoid adopting rules specifying the exact format for contest disclosures or announcements directing listeners to those disclosures. It is in licensees' interest to have the material terms of contests widely available as the public will need to know the material terms of a contest in order to participate. Provided licensees fully and accurately disclose the material terms of contests, they should be given discretion in the way they satisfy their disclosure requirements.

For example, NPR recognizes that contest disclosures need to be easily found by consumers but believes a rule requiring licensees to set apart or distinguish in some way contest terms deemed "material" from other contest information is unnecessary. "Material terms" include those factors which define the operation of the contest and which affect participation therein. Material terms will generally include: (1) how to enter or participate; (2) eligibility restrictions; (3) entry deadline dates; (4) whether prizes can be won; (5) when prizes can be won; (6) the extent, nature, and value of the prizes; (7) the basis for valuation of prizes; (8) time and

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3 NPRM, 29 FCC Red. at 14189.
4 See id. at 14191.
5 47 C.F.R. §73.1216
means of selection of winners; and/or (9) tie-breaking procedures. However, this list is not exhaustive and the material terms of any contest may vary widely depending upon the exact nature of the contest. Licensees should not have to engage in artificial line drawing exercises to distinguish between “immaterial” contest terms and “material” contest terms. Simply requiring contest rules to be made conspicuously available on a licensee’s web page should be sufficient to inform the listener of the rules of that particular contest while providing licensees flexibility to tailor contest disclosures depending on the type of contest at issue. Also, the Commission should not require licensees to maintain contest disclosures after the relevant contest has concluded because the material terms of a contest are no longer important to communicate to the public once that particular contest has ended.

The Commission also seeks comment on whether to adopt a rule requiring that a public website that is used to comply with the Contest Rule’s disclosure requirements be "accessible to the public 24/7 during the contest, for free, and without any registration requirement." NPR believes that a rule requiring constant access to contest rules would not advance the public interest and could create unnecessary liability for licensees who make contest rules available online. Such a rule could be unduly burdensome for both the Commission and licensees because it could lead to complaints being filed with the Commission any time a website becomes inaccessible for any period of time. It is in licensees’ interest to make contest rules posted on a website available and easy to locate in order to encourage participation in the contest. A rule that

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6 Id.
7 Id.
8 See NPRM at 14191 (asking how long a licensee should be required to maintain the contest information on the website).
9 Id.
recognizes licensees' good faith efforts to make contest rules easily available is all that is needed to reinforce the disclosure requirement.

In addition, the NPRM proposes considering modification of the Contest Rule to address how licensees must announce where listeners can find contest terms. The NPRM proposes requiring stations that choose to satisfy their disclosure obligations via an Internet website to broadcast the complete, direct website address where the contest terms are posted each time the station mentions or advertises a contest.\(^\text{10}\) Requiring licensees to announce the direct website address where contest terms are posted every time a contest is mentioned would be burdensome and, as noted above, licensees have an incentive to direct listeners to the contest rules and listeners know to access station websites when looking for more information about what they hear on air. If the material terms of a contest change, the NPRM also proposes requiring licensees to state that a contest's terms have changed each time the station refers to the contest and announce the website address where such terms are posted. This requirement would burden licenses and it is unclear how the public would benefit. Regardless of whether a contest's terms have changed, listeners would need to visit a website to see the applicable terms. Announcing that terms have changed could create confusion because consumers may then question whether the posted terms are accurate. Licensees have an obligation to notify the public of changes to material contest terms but if the Commission permits contest terms to be disclosed via a website, a less burdensome solution would be to require licensees to clearly state that contest terms have changed on the websites listing the contest terms.\(^\text{11}\)

\(^{10}\) Id. at 14191.

\(^{11}\) See Access 1 New Jersey License Co., LLC, Notice of Apparent Liability for Forfeiture, 22 FCC Red 4232, 4235, P 8 and n.24 (EB 2007) (finding that a licensee's failure to notify the public of changes to material contest terms violated the Contest Rule).
Conclusion

For the foregoing reasons, NPR supports allowing broadcasters to provide written disclosure of material contest rules by posting them on their websites as an alternative to broadcast disclosure but urges the Commission to implement changes to the Contest Rule in a way that affords public radio and other broadcast station licensees discretion in how they satisfy their disclosure requirements.

Respectfully Submitted,

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