Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC  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
RM-11684

COMMENTS OF
HUBBARD BROADCASTING, INC.

I.  Introduction

Hubbard Broadcasting, Inc. (“Hubbard”) hereby submits its comments in the above-
referenced proceeding. In its Notice of Proposed Rulemaking (“NPRM”), the Commission
proposes to amend Section 73.1216 of the Commission’s rules, which governs contests
conducted by broadcast stations (“Contest Rule”). As discussed below, Hubbard strongly
supports the Commission’s proposal but suggests some minor modifications.

II.  Discussion

The Contest Rule in its current form requires broadcast licensees to “fully and accurately
disclose the material terms of the contest” and to “conduct the contest substantially as announced
or advertised.” For the purposes of the Contest Rule, “[m]aterial terms include those factors
which define the operation of the contest and which affect participation therein.” Note 2 of the

1 Amendment of Section 73.1216 of the Commission’s Rules Related to Broadcast Licensee-Conducted
through subsidiaries, owns and operates 13 television and 30 radio stations throughout the United States.

2 47 C.F.R. § 73.1216.

3 Id. at Note 1.
rule requires licensees to publicize the material terms of contests through periodic announcements broadcast on the station conducting the contest. While licensees also may employ non-broadcast methods for disclosing material contest terms, they may not substitute such methods for the required broadcast disclosure.4

The NPRM proposes to bring this outdated disclosure requirement into line with modern consumers’ media usage by allowing licensees to disclose material contest terms online, as an alternative to the current broadcast disclosure method.5 It further proposes that those employing the online method of disclosure must “broadcast the complete, direct website address where the contests terms are posted each time the station mentions or advertises a contest.”6 Finally, it asks a host of related questions including, for example, (1) how, where and for how long the rules should appear on the website; (2) whether the material terms should somehow be distinguished when the entire set of contest rules are otherwise posted online; and (3) how to inform listeners when the contest rules have changed.

A. Allowing Licensees to Place Material Contest Terms Online Is in the Public Interest

Hubbard applauds the Commission’s efforts to modernize its rules and supports the concept of allowing a broadcaster to place material contest terms online, whether it be on a station’s website, a licensee’s website, or a publicly accessible website. In 1976, when the Contest Rule was adopted, the Internet did not exist. Practically speaking, there was no other

4 Id. at Note 2.

5 The proposed rule would allow broadcasters to post contest rules (1) on the station’s website, (2) on the licensee’s website, if the station does not have its own website, or (3) on any publicly accessible website, if neither the station nor its licensee maintain a website. Under the Commission’s proposal, the existing broadcast disclosure method also would remain a viable option.

6 NPRM at ¶ 13.
feasible way by which to transmit contest terms to station listeners. By contrast, Internet usage today is widespread; the web is easily accessible, and consumers expect detailed information to be online. Listeners are already accustomed to visiting station websites to access local news, weather, playlists and other information. Likewise, it has become common practice for many broadcasters, newspapers and magazines to direct consumers to the media outlet’s website for more details about a given story, related features, etc. Allowing for the online disclosure of contest terms would be more consistent with the way consumers and broadcasters access and provide information today.

Allowing for online disclosure would also better serve the public interest. It would allow listeners to call up the contest terms anytime, rather than forcing them to wait for – and potentially miss – the broadcast announcement. Online disclosure also is likely to help listeners better understand a contest’s terms. Aural disclosures are arguably difficult to digest. Such information would be better conveyed in an online written format, where listeners can read and understand the terms at their leisure and at their own pace.

In addition, modernizing the rule in this manner would help broadcasters. Lengthy broadcast disclosures clutter the airwaves and drive listeners away. Putting contest terms online would minimize these losses and allow for better programming flow.

B. Requiring the Broadcast of the Complete Website Address Each Time a Broadcaster Mentions Or Advertises a Contest Is Unnecessarily Burdensome

While the movement to bring the contest rules online is laudable, requiring a station to broadcast a web address each and every time it mentions a contest, even if only in passing, is unnecessarily burdensome and will result in the very aural clutter that the Commission seeks to mitigate.\footnote{NPRM at ¶ 13.} What are the boundaries for this requirement – if a DJ mentions a contest three times
during the same segment, does the web address also have to be given three times, or is once enough? What if the contest name itself is not mentioned, but only marginally referenced? What if a caller unilaterally mentions the contest when making a song request – is disclosure required then? Rather than requiring disclosure of a website address in *every* instance, the Commission should simply require periodic announcements of the web address, as a parallel to what is required under the current rule. In the alternative, it could require the broadcast of the web address once during any segment or program in which the contest is substantially highlighted or discussed. The latter approach would ensure that there is a reasonable nexus between the broadcast of the web address and reference to the contest, while also giving broadcasters some discretion to determine when such a broadcast is actually warranted.

Requiring the broadcast of the “complete, direct website address”\(^8\) is similarly onerous, particularly if the terms reside on an internal page of a station website.\(^9\) Consumers in today’s media marketplace are Internet-savvy and know how to find information they are seeking online. As long as a reasonable consumer would be able to find a station’s contest rules on the station’s website, the broadcast of a station’s home page web address should suffice, even if the contest rules themselves appear on an interior page.\(^10\)

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\(^8\) The NPRM states that the address must take the consumer directly to the page of the website where the contest terms are posted. NPRM at fn. 42. If the contest terms are posted on the home page of the website or a direct link to the contest terms is posted on the home page, announcing the home page address will be sufficient. *Id.*

\(^9\) Hubbard assumes that it would not have to include the “h-t-t-p-colon-backslash-backslash-w-w-w-dot” of a website address in order for it to be considered “complete,” as long as the other identifying components are present (i.e., “fcc-dot-gov” would be considered a “complete” web address for the Commission’s home page). If this assumption is incorrect, the Commission should clarify its expectations.

\(^10\) For example, a station may have a link on its home page labeled “Contests” that links to a page containing information on specific contests which, in turn, provides additional links to contest terms for each contest. Because a consumer would easily be directed to the contest terms from the station home
C. Remaining Online Presentation Issues Should Be Left to the Licensee’s Reasonable Discretion

The NPRM also raises a number of questions regarding the presentation of contest terms online. The nature and appearance of contest terms, including where to place them on a website, what information to highlight, and how long such information should be posted, should be left to the licensee’s discretion. It is in a licensee’s best interests to ensure that listeners can easily find and understand a contest’s material terms. The marketplace itself demonstrates this point, as many stations already post contest terms on their websites in a manner that is clear, concise and readily accessible.\textsuperscript{11} To impose additional timing and disclosure requirements is unnecessarily rigid and might expose broadcasters to potential liability for technical infractions without providing any public interest benefits.

III. Conclusion

Hubbard endorses the Commission’s proposal to update the Contest Rule but proposes that it be tweaked to provide broadcasters with additional flexibility, particularly with respect to the frequency by which broadcasters must air the web address. The modifications suggested herein will ensure that consumers’ interests are being protected while also reasonably balancing the burdens imposed on broadcasters. Based on the foregoing, Hubbard respectfully urges the Commission to adopt the Contest Rule with the changes discussed above.

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\textsuperscript{11} For example, radio station websites operated by Hubbard already include a contests link on their home pages, directing users to a separate page that contains information about station-conducted contests, including contest terms.
Respectfully submitted,

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