

**Before the**  
**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, DC 20554**

In the Matter of	)	
	)	
Entercom Communications Corp.	)	RM-11684
Petition to Amend Section Sec. 73.1216	)	
Licensee-conducted contests	)	

**JOINT COMMENTS IN SUPPORT OF PETITION FOR RULEMAKING**

[Alabama Broadcasters Association,] [Alaska Broadcasters Association,] [Arizona Broadcasters Association,] [Arkansas Broadcasters Association,] [California Broadcasters Association,] [Colorado Broadcasters Association,] [Connecticut Broadcasters Association,] [Florida Association of Broadcasters,] [Georgia Association of Broadcasters,] [Hawaii Association of Broadcasters,] [Idaho State Broadcasters Association,] [Illinois Broadcasters Association,] [Indiana Broadcasters Association,] [Iowa Broadcasters Association,] [Kansas Association of Broadcasters,] [Kentucky Broadcasters Association,] [Louisiana Association of Broadcasters,] [Maine Association of Broadcasters,] [MD/DC/DE Broadcasters Association,] [Massachusetts Broadcasters Association,] [Michigan Association of Broadcasters,] [Minnesota Broadcasters Association,] [Mississippi Association of Broadcasters,] [Missouri Broadcasters Association,] [Montana Broadcasters Association,] [Nebraska Broadcasters Association,] [Nevada Broadcasters Association,] [New Hampshire Association of Broadcasters,] [New Jersey Broadcasters Association,] [New Mexico Broadcasters Association,] [The New York State Broadcasters Association, Inc.,] [North Carolina Association of Broadcasters,] [North Dakota Broadcasters Association,] [Ohio Association of Broadcasters,] [Oklahoma Association of Broadcasters,] [Oregon Association of Broadcasters,] [Pennsylvania Association of

Broadcasters,] [Radio Broadcasters Association of Puerto Rico,] [Rhode Island Broadcasters Association,] [South Carolina Broadcasters Association,] [South Dakota Broadcasters Association,] [Tennessee Association of Broadcasters,] [Texas Association of Broadcasters,] [Utah Broadcasters Association,] [Vermont Association of Broadcasters,] [Virginia Association of Broadcasters,] [Washington State Association of Broadcasters,] [West Virginia Broadcasters Association,] [Wisconsin Broadcasters Association,] and [Wyoming Association of Broadcasters] (collectively, the “Named State Broadcasters Associations” or the “State Associations”) jointly comment in support of the Petition for Rulemaking filed on January 20, 2012 by Entercom Communications Corp. (“Entercom”)<sup>1</sup> which urges the Commission to initiate a rule making proceeding for the purpose of amending Section 73.1216 of the Commission’s Rules (the “Contest Rule”).<sup>2</sup>

## INTRODUCTION

Entercom proposes that Note 2 to the Contest Rule be revised to read as follows:

Note 2: In general, the time and manner of disclosure of the material terms of a contest are within the licensee's discretion. However, the obligation to disclose the material terms arises at the time the audience is first told how to enter or participate and continues thereafter. The disclosure of material terms ~~should be disclosed periodically by announcements broadcast on~~ may be made by the station conducting the contest by either: (a) announcements broadcast on the station; or (b) in written form on a Web site and by email, facsimile, mail or in person upon request by the public, provided that the station broadcast periodic announcements of how and where the public can obtain the material terms in written form. Broadcast announcements made pursuant to (a) and (b) above shall be made periodically, but need not be enumerated each time an announcement promoting the contest is broadcast. A reasonable number of such broadcast announcements

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<sup>1</sup> Petition for Rulemaking, In the Matter of Entercom Communications Corp. Petition to Amend Section Sec. 73.1216 Licensee-conducted contests (Jan. 20, 2012).

<sup>2</sup> These Joint Comments are timely filed by virtue of the Commission’s Public Notice released November 20, 2012. *See* Public Notice, Consumer & Governmental Affairs Bureau Reference Information Center Petition for Rulemaking Filed, Report No. 2969 (Nov. 20, 2012), *as amended* on Nov. 28, 2012.

are sufficient. Disclosure of material terms ~~in a reasonable number of announcements is sufficient. In addition to the required broadcast announcements, disclosure of the material terms may be made in a non-broadcast manner.~~ on a Web site can be made on the station's Web site or if the Station does not have its own Web site and if permitted, on the Web site of its state broadcasters association.

The State Associations support Entercom's Petition with certain qualifications.

## **DISCUSSION**

### **I. The Proposed Change Is in Perfect Alignment with 21<sup>st</sup> Century Consumer Expectations and Practices**

It is common knowledge that 21<sup>st</sup> Century consumers are increasingly using company Web sites for information about a company's business, including its products, services, prices, terms, and promotions such as discounts, sales and contests. The Web sites of radio and television stations are typically used in the same way.

The rule change proposed by Entercom recognizes how valuable company Web sites have become in providing the public with information about radio and television stations and their businesses.<sup>3</sup> For that reason, the proposed rule change serves to align the Commission's Contest Rule with common, general public expectations and practices by encouraging (but not requiring) broadcast stations to post on their Web sites the terms and conditions for entering and winning contests they conduct. Similarly, by enhancing the "regulatory" utility of station Web sites, the proposed rule change should logically encourage those few broadcast stations that do not have Web sites to establish their own Web sites in order to take advantage of the option

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<sup>3</sup> Indeed, the Commission's own regulations recognize the accessibility and utility of Web sites to public. *See, e.g.*, 47 C.F.R. § 73.2080(c)(6) (rule requiring the posting of a station's Annual EEO Public File Report on the station's Web site, if it has one); *see also* 47 C.F.R. § 73.3526-3527 (rules requiring the posting of television station's public inspection files on the station's Web site, if it has one).

created by the proposed rule change. All of these results will benefit regulated parties and the public alike.

## **II. The Proposed Change Will Assist Not Only Broadcast Stations, But Also Consumers Who Will Have Convenient, 24/7 Access to a Full Set of Contest Rules**

On-air time and space are limited. Radio station contest announcements are limited by their short duration and audio-only nature. These announcements often reflect an unsatisfactory compromise, created by the Contest Rule, between providing information that encourages listeners to participate in a station's contest and providing sufficient information to "fully and accurately disclose the material terms of the contest."<sup>4</sup>

While television stations have more flexibility, they are also constrained by the present Contest Rule. Television stations have the benefit of audio and video means to communicate their messages. Thus, they can visually scroll the material terms of the contest while audibly encouraging viewers to participate in the station's contest. However, television stations are still limited by the amount of visual and audio "space" available in a spot announcement. Television stations' contest announcements, like radio announcements, are therefore constrained under the Contest Rule by, on the one hand, the need to "fully and accurately disclose the material terms of the contest" while providing those terms in fonts, in spacing, and at a pace legible by the viewer, and, on the other hand, the desire to communicate enough information to encourage the viewer to consider participating in the station's contest.

The revised rule proposed by Entercom will help to reduce these challenges without compromising the underlying goal of the Contest Rule, which is to ensure that listeners and viewers will have enough information about a station contest to make an informed judgment

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<sup>4</sup> See 47 C.F.R. § 73.1216.

about whether and how to participate in that station's contest. If the proposed Contest Rule change is adopted, a station will have the option of directing listeners and viewers to the station's Web site address for details about the rules for the contest, thereby allowing the station to devote the rest of their contest announcements to all the reasons why the station's listeners or viewers, as the case may be, should consider participating in its contest.

By creating a regulatory incentive for broadcast stations to use their Web sites as an online depository for the terms and conditions of their contests, listeners and viewers will also become direct beneficiaries of the FCC's action. First, for those stations that elect to post their contest rules online, no longer will their listeners and viewers have to wait for two or three more contest announcements before they are able to remember as well as digest all of the material terms of the contest. Rather those listeners and viewers will need only to learn the Web site address for the contest rules, after which they can access complete contest details by simply clicking a button, at any time of their choosing, 24/7. Second, listeners and viewers will be able to take as much, or as little, time they wish to review and understand the contest rules before making the decision to participate. Third, consumers will be able to easily share the contest rules with their families and friends by providing them with station's Web site address. Finally, because the full contest rules will be available online for members of the public to read and digest at their convenience, consumer misunderstandings should be reduced. Such an effect should also result in fewer complaints filed with the FCC and a reduced burden on the FCC's limited resources.<sup>5</sup>

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<sup>5</sup> The FCC should no longer see, for example, complaints that stations did not disclose the material terms of the contest rules *in their broadcast announcements* or that they failed to broadcast such announcements with sufficient frequency. *See, e.g.,* Clear Channel Communications, Inc. 27 FCC Rcd 343, ¶ 6 (2012) (finding that the licensee failed to fully and

### **III. Stations Should Be Able to Post Contest Rules on Their Own Websites or on Any Other Free, Publicly Accessible Web Site That Elects to Permit Such Posting**

Entercom suggests that the Commission, as a further compliance option, should allow stations that wish to post contest rules at a Web address, but that lack their own Web sites, to post their contest rules on the Web sites of the State Broadcasters Associations. The State Associations support allowing broadcast stations the option of posting their contest rules on *any Web site* that allows such posting so long as (i) the Web site is accessible to the public 24/7 during the contest, for free and without any registration requirement, and (ii) the station airs periodic announcements during the contest giving the Web site address where the contest rules may be viewed. In all such cases, listeners and viewers would have very accessible, unlimited access to a station's contest rules.

However, there is no unanimity among the State Associations for agreeing to serve as a third-party Web host for station contest rules. The State Associations believe that a station's own Web site, absent special circumstances, would be the most logical depository of a station's contest rules. By using its own Web site to post its contest rules, a station would not only be in a position to more reliably correct and update its contest rules, such posting would also serve to drive listeners and viewers to the station's Web site—a fundamental goal of all station Web sites.

In any event, if the Commission were to allow stations, as a compliance option, to post their contest rules on any Web site that is free and publicly accessible 24/7 during the contest without a registration requirement, no party to this proceeding should have the expectation that its state broadcasters association would necessarily be willing or able to serve that Web site

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accurately disclose material terms of the contest where contest rules were not broadcast but were made available via the stations' websites); *Good Karma Broadcasting*, 27 FCC Rcd 10983, ¶¶ 3, 9 (2012) (finding that the licensee failed to announce the contest's material terms with sufficient frequency where the station ceased announcing contest prizes during the last year in which it ran the contest).

posting role. The Boards of each State Association must retain the unilateral, discretionary right to assess the costs and risks of serving as a third-party host, and to decide whether, and on what terms and conditions, to offer to serve in that capacity. Any arrangement for that type of service would be a business matter strictly between the State Association and each station.

### **CONCLUSION**

Based on the foregoing, the State Associations respectfully urge the Commission to promptly initiate a rulemaking proceeding that proposes to amend the Contest Rule in the manner proposed by Entercom, taking into consideration, and consistent with, these Joint Comments.

Respectfully submitted,

NAMED STATE BROADCASTERS ASSOCIATIONS

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**CERTIFICATE OF SERVICE**

I, [NAME], a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that copies of the foregoing “**JOINT COMMENTS IN SUPPORT OF PETITION FOR RULEMAKING**” was served via U.S. mail this [DATE] day of December, 2012 to the following:

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