

FCC Broadcast Regulation

Payola

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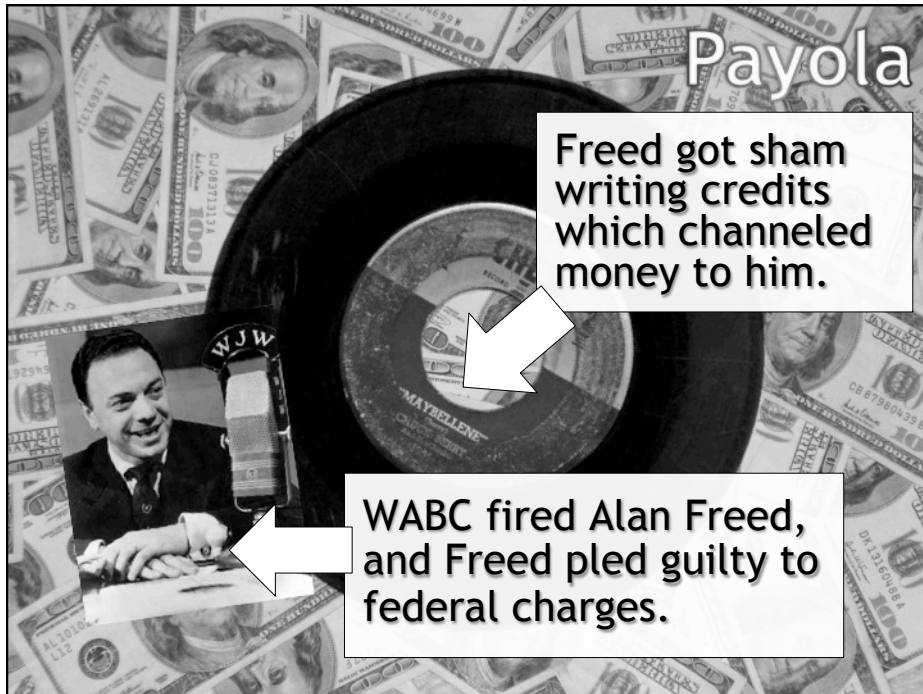
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- Regulated by federal law.
- Enforced by FCC
- Enforcement process is driven by complaints from the public (including watchdog groups and competitors).
- Applies to broadcasting.
- Limited application to cablecasting.



§ 317

§ 317 of the Communications Act (47 U.S.C. § 317) requires broadcasters to disclose to their listeners or viewers if matter has been aired in exchange for money, services or other valuable consideration. The announcement must be aired when the subject matter is broadcast. An FCC rule specifies broadcaster responsibilities in making the sponsorship identification: 47 C.F.R. § 73.1212



§ 317 ANNOUNCEMENT WITH RESPECT TO CERTAIN MATTER BROADCAST.

(a)(1) All matter broadcast by any radio station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is so broadcast, be announced as paid for or furnished, as the case may be, by such person: Provided, That "service or other valuable consideration" shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, a broadcast unless it is so furnished in consideration for an identification in a broadcast of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property on the broadcast. ...

(b) [Disclosure must be made by station even if payment was to an employee, announcer, etc.]

(c) The licensee of each radio station shall exercise reasonable diligence to obtain from its employees, and from other persons with whom it deals directly in connection with any program or program matter for broadcast, information to enable such licensee to make the announcement required by this section.

(d) The Commission may waive the requirement of an announcement as provided in this section in any case or class of cases with respect to which it determines that the public interest, convenience, or necessity does not require the broadcasting of such announcement.

(e) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section....

§ 507

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§ 507 of the Communications Act (47 U.S.C. § 507) requires that when anyone provides or promises to provide money, services or other consideration to someone to include program matter in a broadcast, that fact must be disclosed in advance of the broadcast, ultimately to the station over which the matter is to be aired. Both the person providing or promising to provide the money, services or other consideration and the recipient are obligated to make this disclosure so that the station may broadcast the sponsorship identification announcement required by § 317.

Up to \$10,000 in fines and one year in prison.

Common factual contexts

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- Being paid by the record company for playing records
- Free pizza for the DJ
- Product placement in scripted television
- Game show prizes

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**Disclosure
is the key to
avoiding liability.**



The Price Is Right - March 18, 1987



The Price Is Right - March 18, 1987



The Price Is Right - March 18, 1987

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In the Matter of Fox Television Stations, Inc.
Licensee of Station KMSP-TV Minneapolis

NAL/Acct. Number: 201132080023

File Number: EB-06-IH-3709

July 7, 2011



Sources

FCC (some text used verbatim or nearly so):

<http://transition.fcc.gov/eb/broadcast/sponsid.html>

<http://transition.fcc.gov/eb/Orders/2011/DA-11-1170A1.html>

The Price Is Right - March 18, 1987 close w/ credits:

<http://www.youtube.com/watch?v=-1ZlFNhxjrc>

<http://www.youtube.com/watch?v=pR6Kqb8KU58&feature=related>