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RM-79841

ORIGINAL
FILE

UNIVERSAL DIRECT
TELEVISION INC.

June 8, 1992

The Honorable Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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Fairfield, Iowa 52556
Tel: (515) 472-6700
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Dear Secretary Searcy,

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

I am writing to oppose the petition that requests that the Commission amend its sponsorship identification rules as they apply to program-length commercials.

My company, Universal Direct Television, Inc. performs consulting services to the program-length commercial industry and has provided media campaign management services to the industry for the past 3 years. Prior to that I was an officer at Hawthorne Communications and worked as Vice President of Media Services for 3.5 years where we specialized in buying media time for paid programs. Prior to that I was media manager for Fairfield Television Enterprises where we bought television time for paid programs (infomercials).

As I am a founder and member of the Board of Directors of the National Infomercial Marketing Association (NIMA), I and my company support the efforts in our industry to make certain that show producers and marketing companies comply with the standards set forth by the NIMA guide-lines and advertising laws in general. We also track shows that are airing on a regular basis and we support and make certain that the shows we track and air do conform to the NIMA guide-lines, that is, the program length commercial does inform viewers of the commercial nature of the infomercial by using disclaimers.

I feel there is no justification to amend the sponsorship identification rules. The concern that prompts the petition, that consumers cannot tell that a paid program is a commercial does not provide a basis for changing the current rules. The commercial intent of all infomercials is explicit: to sell product, to promote commercial transactions, and the viewer is made well aware of that fact. If any doubt remains, under the current industry wide practices adopted and supported by NIMA, the viewer is made fully aware of the company sponsoring the program or infomercial by clear disclosure at the opening of the show, before each ordering opportunity and at the close of the show. All infomercials currently on the air that I have seen contain this information.

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We also support the current way our industry is being regulated, that is, in which the Federal Trade Commission is responsible for policing infomercials to insure that no false or misleading information is presented in the show and that infomercial advertisers do not cloak the show by using a deceptive format that suggests the show is not a commercial.

Based on the meetings I have been in with the Federal Trade Commission (FTC) and the NIMA Board of Directors, the FTC did indicate that they would regulate program length commercials from the point of view of whether the infomercial was making fraudulent, misleading or unsubstantiated claims about the product or service that is being sold. As you may know the FTC has conducted numerous investigations into infomercials that were indeed found to be deceptive and consent agreements followed. From my point of view there seems to be no evidence that the FTC is failing to address consumer deception problems in infomercials.

Additionally, there is no factual evidence that consumers cannot tell the difference between the commercial solicitation and the body of the infomercial itself. Therefore the contention that infomercials are deceptive because consumers cannot tell the difference between the infomercial and the commercial solicitation is baseless. Again, all infomercials that have aired on Cable TV in the last year that I have seen (I have 3 VCR's taping 30 hours per night of infomercials and I review them every day to track shows) have had the disclaimers properly placed, that is at the open of the show, the close of the show and before each ordering opportunity.

Infomercials represent a legitimate form of commercial speech. Infomercials provide more than \$300 million dollars or revenue to television stations annually (1992 industry estimate) and help support free over air television. The fact that the FCC would restrict infomercials, or have infomercials have a logo or other restrictions not required of other forms of television advertisements, raise sensitive First Amendment considerations.

In closing, we feel for all the reasons stated above that the FCC should reject the petition and not initiate a rulemaking to reconsider its sponsorship identification policy to single out infomercials or program length commercials for special adverse treatment.

Thank you for your consideration.

Sincerely,


David Chaladoff
President