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Specializing in Product Distribution to the Retail Trade

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June 11, 1992

THE HONORABLE DONNA R. SEARCY
SECRETARY
FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
WASHINGTON, D.C. 20554

RE: RM NO. 7984/OPPOSE AMENDMENT OF COMMISSION'S RULES
TO REQUIRE CONTINUOUS SPONSORSHIP IDENTIFICATION
FOR PROGRAM-LENGTH COMMERCIALS

Dear Secretary Searcy:

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

We are very involved in the infomercial industry. We have an office force of 6 persons and a sales force of 167 salespersons. This Company was formed in 1989 especially to create products for the infomercial market and to distribute the product from television to the retail market place. We presently are selling over 150 million dollars annually in goods introduced on infomercials to the retail trade and growing.

We strongly support efforts to make certain that all infomercials produced or distributed by any company are clearly labelled in accordance with NIMA guide lines and that producers of program length commercials comply with high ethical standards. The company therefore is a member of the National Infomercial Marketing Association. It actively supports NIMA's Marketing Guidelines and its efforts to make certain that program length commercials fully and fairly inform consumers of the commercial nature of the programs.

There is no justification for amending the sponsorship identification rules. The concern that prompts the petition that viewers cannot tell that an infomercial is a commercial does not provide a basis for going forward. The commercial intent of most infomercials is explicit. They are designed to promote commercial transactions, and the viewer is made aware of that fact. If any doubts remain, under current industry practice adopted and supported by NIMA, the viewer is made fully aware of the entity sponsoring the program length commercial, including explicit disclosure at the beginning and end and before each ordering opportunity. All of the companies infomercials contain this information.

We also support the current regulatory system, in which the Federal Trade Commission is responsible for policing infomercials to make certain they are not false or misleading, including any program whose format or representations attempt to mislead consumers by suggesting that the show is not actually a commercial.

Questions about program length commercials concern whether particular programs make fraudulent, misleading or unsubstantiated claims about the product or service they sell. These problems should be regulated by the Federal Trade Commission, which has the legal authority, staff and experience to prevent such problems. The FTC has conducted an aggressive enforcement program over the years against individual programs that have been found deceptive. Nothing has occurred that suggests that the existing divisions of responsibility between the FCC and FTC is failing to address consumer deception problems in infomercials.

Some opponents of infomercials contend that the format is inherently deceptive, because consumers cannot tell the difference between the informational parts of the program and the commercial solicitation. There is no evidence to support this claim. Furthermore, all the program length commercials produced or distributed by this company clearly states at the beginning and end of the program, and before and after each ordering opportunity, that this program is a paid advertisement.

Infomercials are a legitimate form of commercial speech. By providing revenue to broadcast stations, they help support free, over the air television. Furthermore, suggestions that the FCC restrict infomercials, or brand them with special requirements not required of other forms of television advertisements, raises sensitive First Amendment considerations.

We as a Major Company in this industry that ties retail sales and infomercials together, believe that the FCC should reject the petition and not initiate a rule making to reconsider its sponsorship identification policy to single out program length commercials for special adverse treatment. It is unfair and un American and hinges on the verge of violating the Constitution of the USA.

Sincerely,



Leonard S. Foncher
Chairman