

JUL 27 2006

PETITION FOR RULEMAKING

WHEREAS, the Federal Communications Commission has the power to prohibit certain *deceptive and unfair practices in televised contests*, according to Section 508 of the Communications Act of 1934 as amended.

FCC - MAILROOM

WHEREAS, the current structure of the Federal Communications Commission does not permit it to effectively enforce this authority,

WHEREAS, the fact that producers of contests promulgate the rules thereof, and are also the persons enforcing the rules, amounts to a conflict of interest, or, at the very least gives the perception of one.

WHEREAS, this conflict of interest or perceived conflict of interest increases the probability of infractions of Section 508 of the Communications Act of 1934 as amended.

I hereby submit this PETITION FOR RULEMAKING to the Federal Communications Commission.

I hereby petition the Federal Communications Commission (hereinafter "FCC") as follows:

I ask the FCC to use its rulemaking authority to mandate that all televised contests (as "contest" is defined in the Communications Act of 1934 as amended) be supervised by independent referees to ensure a fair contest, and to ensure that no violation of FCC regulations concerning contests occurs.

The following contests would be exempt from the rule:

01. Professional contests or exhibitions of sport sanctioned by a nationally recognized governing body for that particular sport, provided that this exception shall apply only if there are no other elements to such contest or exhibition (i.e. if the contest or exhibition were to form part of a so-called "reality show" it would fall within the rule and would not be exempt)

02. Amateur contests or exhibitions of sport sanctioned by a nationally recognized governing body for that particular sport, provided that this exception shall apply only if there are no other elements to such contest or exhibition.

I further propose that all such independent referees supervising a contest be required to obtain a license from the FCC to do so. Further, any person employed by a producer, or a broadcast licensee within the previous eight years should, under most conditions, be ineligible for a license.

As to the powers of the referees, I propose that they be the sole arbiters of the contest, with the power to caution, warn, penalize, or disqualify any person associated with the

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contest for violation of the rules thereof, for extreme unsporting behavior, or for violations of FCC regulations. The referees would also have the power to suspend or terminate, at any time, the entire contest or any portion thereof, should it be deemed in their sole discretion that, to continue would place the contestants at unjustified peril of great bodily harm or death. In addition, they would have the sole power to disqualify a contestant as medically unable to continue, with or without consultation of medical personnel, subject to the condition that, unless the referee is convinced beyond reasonable doubt that Section 508 of the Communications Act of 1934 is being violated, he shall abide by the decisions of medical personnel if they deem a contestant unable to continue.

Referees and medical personnel would be required to abide by the following justification standard with respect to declaring a contestant unfit to continue.

"Referees and medical personnel shall declare a contestant unable to continue a contest if and only if one of the following is met:

- 1. It is determined that the contestant is at imminent risk of death or irreversible great bodily harm.*
- 2. It is determined that to continue the contest would place the contestant at imminent risk of death or irreversible great bodily harm.*
- 3. It is determined that a contestant is, for whatever reason, unable to intelligently or effectively protect or defend himself/herself from danger in the context of the contest."*

As to the selection of referees for contests, I propose that production personnel be required to ask FCC to assign a sufficient number of licensed referees to adequately supervise the entire contest at all times. (Note: some reality-type contests never actually stop until a winner is declared, despite the appearance of "down time". There should be a sufficient number of referees such that no referee is on "active status (actively officiating)" for more than 16 consecutive hours, except in an emergency. Once this limit is breached, the referee should be required to take a rest period of 12 consecutive hours.) Where there are contestants of both genders competing, there should be at least one male referee and at least one female referee on "active status" at all times.

As to immediate FCC enforcement powers, I propose that referees shall be considered enforcement officers of the FCC, with limited law-enforcing powers which shall only be valid while actually officiating a contest, and only with respect to the contest. Further, they shall be allowed to impose fines not exceeding \$5000 per violation of contest rules, incident of unsporting behavior, or violation of FCC rules or the Communications Act related to contests.

I feel strongly that this proposed rule is needed to ensure fairness of all televised contests.

Respectfully Submitted to the FCC,

Austin J. Baitman

