

programming material which is broadcast or otherwise transmitted in exchange for remuneration, and which is intended (1) to promote any service, facility, or product offered by any person engaged in such offering for profit. . . .”⁴ Product placement, defined by the Commission as “the practice of inserting branded products into programming in exchange for fees or other consideration,”⁵ is by definition “advertising”. So is product integration, which the Commission explains is “the integration of the product into the plot of the story”⁶ in exchange for remuneration. Thus, “embedded advertising”—including both product placement and integration—is verboten for Public Television.

The Public Broadcasting Service (PBS), the main programming clearinghouse for public television stations, specifically prohibits product placement in its Standards and Practices:

[P]roducers are cautioned to scrupulously avoid “product placement” arrangements, i.e., the deliberate or gratuitous appearance in the program of an underwriter’s product or service in a way that draws attention to or features that product or service in any way whatsoever. Producers need not substitute a competitor’s products for those of an underwriter, but must use care to ensure that any appearance of an underwriter’s product is purely incidental and could not be misconstrued as a product placement.⁷

Public Television producers on occasion may accept “in kind” donations of products or services for use in the production of a program. For example, KSMQ, a local public television station in Austin, Minnesota, states that its locally produced public affairs program *Cities on the Move* is in part made possible by the contribution of its wardrobe by area company Leutholds.⁸ However,

⁴ 47 U.S.C. § 399B(a).

⁵ *Notice* at fn.2.

⁶ *Id.*

⁷ PBS National Program Funding Standards and Practices, Section IIC, *available at* http://www.pbs.org/producers/guidelines/principles_iic.html

⁸ *See* program acknowledgements, *available at* <http://www.ksmq.org/programs/citiesonthemove/>

in such cases, producers are not permitted to focus attention on, or in any way promote, the product or service. Furthermore, stations identify donors whenever required by federal law.⁹ Thus, the issues raised by the Commission—that products and services may be being marketed to viewers surreptitiously—are simply not applicable in the Public Television context.

“Embedded advertising” is, by definition, advertising in which Public Television stations are forbidden from engaging pursuant to federal law. The existing sponsorship identification rules are sufficient to address disclosure of Public Television’s program underwriters and any “in kind” donations that assist program production. Thus, APTS asks that any new or altered rules in this area not be applied to noncommercial educational television stations.

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⁹ See 47 U.S.C. §§ 317; 47 C.F.R. § 73.1212.