

Model Nondiscrimination Clauses for Written and Oral Contracts Between Broadcasters (including their rep firms) and Advertisers (including their agencies)

Nondiscrimination Policy. In accordance with the Federal Communications Commission’s (“FCC”) prohibition on discrimination in broadcast advertising (Promoting Diversification of Ownership in the Broadcasting Services (Report and Order and Third Further Notice of Proposed Rulemaking), 23 FCC Rcd 5922, 5941-42 ¶¶49-50 (2008) (the “FCC Advertising Nondiscrimination Rule”)) and all other State and Federal regulatory, statutory, or constitutional nondiscrimination provisions, [Advertiser or Agency] hereby affirms that in its placement, scheduling and compensation for the purchase of all broadcast advertising, it does not discriminate because of the race, color, religion, sex, national origin or language of members of a broadcaster’s audience, and that it observes the Advertising Nondiscrimination Working Group’s Nondiscrimination Best Practices, which are set out at [LINK].

[The LINK would connect to the following Further Statement:]

Nondiscrimination Best Practices. To ensure that an advertising contract with a broadcaster is performed as contemplated by the above-stated Nondiscrimination Policy, [Advertiser or Agency], when it places advertising with a broadcaster for a period of at least six months, will provide the broadcaster with a quarterly report verifying that in the preceding quarter:

- (1) it posted the Nondiscrimination Policy where it can be seen by all employees;
- (2) it provided each of its employees with a notification of the Nondiscrimination Policy and with the telephone number of a senior official of [Advertiser or Agency] who employees should contact for guidance concerning their obligations under the Nondiscrimination Policy or to report possible violations of the Nondiscrimination Policy or of the FCC Advertising Nondiscrimination Rule by [Advertiser or Agency] or any other party;
- (3) it provided each of its employees who assists with the evaluation or purchase of broadcast advertising with training that is reasonably sufficient to ensure [Advertiser’s or Agency’s] compliance with the Nondiscrimination Policy;
- (4) it has set out the Nondiscrimination Policy on every subcontract or purchase order in such a manner that the Nondiscrimination Policy will be binding upon each subcontractor or vendor as to its work for [Advertiser or Agency]; and
- (5) it will cooperate fully with a broadcaster and a rep firm’s broadcast clients in their compliance and verification of compliance with the FCC Advertising Nondiscrimination Rule.