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Federal Communications Commission  
Office of the Secretary

MEMORANDUM

TO: The Federal Communications Commission  
FROM: Craig Parshall, Sr. Vice-President & General Counsel  
National Religious Broadcasters (NRB)  
DATE: October 15, 2008  
RE: Restrictions on non-commercial radio licensees raising funds  
for other non-profit organizations

ISSUE: This memo summarizes our concerns regarding the inability of non-commercial stations, barring a waiver from the FCC, from raising funds for other non-profit organizations. We also propose a rule change to remedy this.

CURRENT RULE: The current rules are in place:

(1) Stations may not substantially alter or suspend regular programming in order to raise funds for other nonprofits. See: *Windows to the World Communications, Inc.* forfeiture letter (December 3, 1997)(stations suspended regular programming to conduct a fundraiser that was not solely for the benefit of the station). See: Memorandum Opinion and Order, *Daystar Public Radio, Inc., Licensee of Noncommercial Educational Stations WKSG (FM), Cedar Creek, FL* (July 8, 2002)(“ . . . the Commission has narrowly construed what constitutes permissible fundraising on noncommercial stations. Specifically, the Commission has held that, in the absence of a waiver, noncommercial stations are prohibited from conducting any fundraising activity which substantially alters or suspends regular programming and is designed to raise support for any entity other than the station itself, and for purposes other than station operations. See Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations (“ Policy Statement”), 90 FCC 2d 895, 907 (1982), recon. granted, 97 FCC 2d 255, 264- 65 (1984); Ohio State University, 38 RR 2d 22 (1976).

(2) The Commission, except in times of large-scale emergencies or major disasters, has been reluctant to issue waivers.

(3) How stations may avoid violating this rule while conducting fundraising activities is fraught with problems and uncertainties. Anecdotal information received by NRB is that (a) there is uncertainty among broadcasters as to what would constitute “substantially” altering regular programming in violation of the current rule; (b) the alternative of using underwriting spots to promote other non-profit groups is both ineffective and surrounded by uncertainty as to the permissible frequency and length of such spots.

POLICY CONSIDERATIONS:

(1) Admittedly, where a non-commercial station raises funds for a for-profit organization (see: *Daystar, supra*) this may indicate that the fundraising effort lacks a broad public interest.

(2) However, where the fundraising activities seek to benefit a worthy non-profit cause (although outside of the station's direct zone of operations as a licensee), the problem in (1) disappears and the public interest is clearly being served.

(3) While it is admirable that the FCC has freely granted waivers for large-scale natural disasters or for other national emergencies (i.e. the 9/11 attack) , these do not exhaust the other worthy public causes that could potentially be advanced through the broadcast medium of non-commercial stations.

(4) In addition to our suggestion of a 1% airtime limitation (see section (1) (a) below), there is another check-and-balance that will reign-in potentially excessive or abusive public fund-raising appeals on behalf of third-party non-profits, if our proposal is implemented. Non-commercial licensees rely on their own fund-raising appeals to cover the expenses of their own operations. Excessive appeals for other non-profit groups could negatively impact the licensee's own self-interests by diverting public support away from that broadcaster, and would work as another powerful incentive to limit fund-raising for other non-profits.

OUR PROPOSAL:

(1) All non-commercial broadcasters shall be exempted from restrictions on conducting fundraising activities for other organizations which are non-profit under section 501 (c) (3) of the Internal Revenue Code, provided that: (a) such activities do not alter or suspend more than 1 % of the broadcaster's total program airtime annually; (b) the fundraising activities exempted shall be directed to an identified, bona fide charitable, educational, or religious need which the non-profit 501 (c) (3) organization is equipped and committed to aid, and (c) the broadcaster, during such exempt fundraising activities, shall fairly inform its audience of the nature and extent of the need, its possible causes, and the benefits likely to result from public financial support.

(2) Nothing in this provision shall affect the ability of the Commission to grant waivers to non-commercial broadcasters.

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