

CALM Compliance Details Emerge

MSOs Won't Be Responsible for Volume of Broadcast-TV Spots

by JOHN EGGERTON

WASHINGTON — Cable operators won't be responsible for making sure commercials from broadcast TV that they retransmit are not too loud.

But they will be responsible for the volume on national ads passed along by programming networks, for ads they insert themselves and for show promos they pass along from the networks.

That is according to two Federal Communications Commission sources who have studied the item implementing the Commercial Advertisement Loudness Mitigation (CALM) Act, which has been circulating among the commissioners for a vote this week (Dec. 13). There could still be tweaks and edits to the order before a vote.

The FCC released its rulemaking proposal on the CALM Act last May and signaled cable operators would be responsible for cable commercials they did not insert.



Cable operators will not have the same backstop responsibility for ads on TV stations they retransmit. "Broadcasters are responsible for themselves," the order concludes, whether they are on cable via must-carry or retransmission consent.

Smaller cable operators will have to comply with the rules. But there will be hardship-waiver opportunities.

Also, smaller operators will not be required to purchase the equipment necessary to monitor and test commercial loudness. They will still be responsible for the consequences if there is a complaint that is upheld.

Larger operators will have to obtain the equipment and do regular monitoring.

"I wouldn't say the smaller operators would be thrilled because they don't want to have to be on the hook for this at all," one commissioner aide said.

The FCC's lobby was said to be filled with, well, lobbyists last week as they tried to make their cases to commissioners and staff before the quiet

period in advance of the scheduled Dec. 13 vote.

Among them were representatives of the National Cable & Telecommunications Association, the American Cable Association and Verizon Communications, according to ex parte records.

Cable operators were unhappy about having to be responsible for making national ads and promos comply.

WHERE BUCK STOPS

Broadcasters were also concerned about having to be responsible for commercials in network and syndicated programming they did not insert. But the buck had to stop somewhere, one FCC source said.

TV stations are liable for indecency fines for network programming, not the networks themselves, the FCC source noted.

The FCC is proposing that broadcast and cable operators also be responsible for normalizing the volume in political spots — which could run into the "no censorship" provision in the Communications Act regarding political ads, depending on whether or not shouting was the point of the ad.

The FCC is under a congressional deadline to produce rules implementing the CALM Act by Dec. 15, after which the industry has a year to comply. ■

NBCU Stations Tap ProPublica

by JOHN EGGERTON

WASHINGTON — NBCUniversal has delivered on another promise to the government that came with the deal that brought it into the Comcast fold.

NBC-owned TV stations have selected four nonprofit content partners, including high-profile investigative site ProPublica, to help produce more (and more diverse) local news at four owned-and-operated TV stations and across its 10-station group.

NBCUniversal

The move also stems from NBC's "longstanding commitment to localism," the station group said in unveiling the new partnerships.

One of Comcast's voluntary commitments was that at least half of the 10 NBC-owned television stations would enter into cooperative arrangements with locally focused, nonprofit news organizations.

Comcast has already delivered on its deal pledge of more diverse news via a ramp-up of local news at NBCU's Spanish-language broadcast network, Telemundo.

The four new content partners are in addition to an existing partnership in San Diego between KNSD and website voiceofsandiego.org.

"We're confident this agreement will extend the reach and impact of ProPublica's groundbreaking news applications and result in great local stories for NBC viewers around the country," Richard Tofel, ProPublica's general manager, said in a statement. "Beyond that, we're very grateful for NBCUniversal's commitment to supporting innovative non-profit journalism in the public interest."

ProPublica, the first news outlet to win a Pulitzer Prize for work that did not appear in print (in 2011), and winner of two awards in as many years, will help boost NBC local-station news resources while providing a wider platform for the nonprofit.

NBCU made a donation to ProPublica, according to Tofel, though it was not part of the formal agreement.

Comcast/NBCU donated to each of the sites it chose as partners, according to a Comcast/NBCU source speaking on background. Amounts were not disclosed.

NBC stations will get a broadcast TV-exclusive first-look at ProPublica news applications, including the "Dollars for Docs" database of hundreds of millions of dollars in payments to doctors from pharmaceutical companies, Tofel said. Some 120 news organizations have used that database for local stories.

For the next such investigation, NBC's owned stations "will get access for their local television station ahead of other television stations with which they compete," Tofel said.

Tofel said the deal does not include NBC stations sharing information with ProPublica, though that might be a two-way street as they start working together on stories.

In the three other local-market partnerships, the *Chicago Reporter* will team up with WMAQ-TV in Chicago, while WCAU in Philadelphia and KNBC in Los Angeles will team up with local noncommercial stations WHY-TV and public radio station KPCC, respectively. ■

STATIONS' ROLE

The agency also asked for comments on whether the responsibility should extend to ads on broadcast TV stations retransmitted via must-carry or retransmission-consent agreements.

The FCC has concluded that broadcasters should be responsible for those ads.

The CALM Act empowers the FCC to regularize the volume between programming and commercials. It adopts Advanced Television Systems Committee-recommended practices for variations in commercial volume in relation to the programs around them.

Cable operators and other multichannel-video distributors had told the agency that they should only be responsible for the commercials they insert, rather than the ones they pass along.

What the FCC says in the order, according to one source, was that Congress' intent was not to get 5% of the commercials right, but 100%. Thus, both broadcasters and cable operators will be responsible for so-called "embedded commercials," as well as those they insert.

Even if an operator identifies a loudness problem in a commercial and informs the programmer about it, the operator will still be on the hook for potential liability if the problem persists.

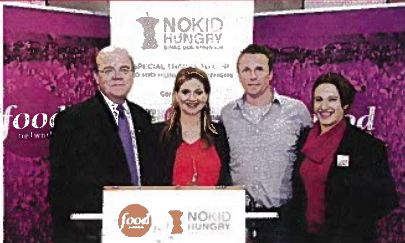
FOOD NETWORK STARS AID 'NO KID HUNGRY' CAUSE

WASHINGTON — Food Network will send a truck around the capital this holiday season, collecting the following for a food bank: 15,600 diapers, 11,500 cans of beans, 8,600 cans of veggies, 2,900 tins of tuna, 2,200 cans of soup, 1,800 bags of rice and 1,400 jars of peanut butter.

Pictured at a Dec. 6 press conference on Capitol Hill are (l. to r.): Rep. James McGovern (D-Mass.), co-chair of the House Hunger Caucus; Amanda Freitag and Marc Murphy of Food Network's *Chopped*; and Laura Goodman, senior director of corporate partnerships at Share Our Strength. They were in town to announce the food drive in the Washington, D.C.-to-Philadelphia corridor, in association with Whole Foods Markets and the "No Kid Hungry" initiative, and to raise awareness of childhood hunger.

Chopped has been integrating nutrition themes into the chef competition, including a contest between school chefs ("lunch ladies") that had the winner — amid tears all around — talking about packing the take-home meals for kids she knew might not get a weekend meal at home.

— John Eggerton



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