

The FCC and its regulations

The FCC is the acronym for the Federal Communications Commission, a government agency with headquarters in Washington, DC. It is a branch of the U.S. Government just like the Internal Revenue Service or the Federal Bureau of Investigation. Your job as a DJ is to be familiar with the many rules for which the FCC holds stations and announcers accountable. The FCC consists of five commissioners who regulate all aspects of how the radio industry works – everything from issuing broadcast licenses, allocating call letters, regulating the Emergency Alert System (EAS), making surprise visits to stations to inspect the Public File, or just tuning in late at night to make sure legal IDs are done correctly.

If you have any questions about anything, please contact the Programmer Support Committee. You will learn about some of the most important FCC rules while studying this document. Perhaps the most important thing to keep in mind when studying these rules is that they are meant to be observed. Stations that fail to follow FCC rules are regularly fined large amounts of money and subsequently refused the privilege of broadcasting.

THE LEGAL ID

The FCC requires all stations to identify themselves in this specific way. Called the Legal ID, it must be played during a natural break as close to the top of the hour as possible. Within five minutes on either side of the hour is generally acceptable. You may either say it live or play a pre-recorded Station ID. The FCC stipulates that the proper legal ID will have the station's call letters followed by its city of license. Our Legal ID is: "WBCR-lp Great Barrington."

You are permitted to insert the station's frequency in between its call letters and city of license, meaning "WBCR-lp Great Barrington" and "WBCR-lp 97.7FM Great Barrington" are also acceptable. You are NOT allowed to insert any other information in between WBCR and Great Barrington. This means "WBCR-lp 97.7FM," "WBCR-lp in Great Barrington," "WBCR-lp Community Radio in Great Barrington" and "97.7FM WBCR-lp" are not legal IDs. You may put whatever you want before or after it, but every legal ID must contain "WBCR-lp Great Barrington." Consistent failure to do a proper legal ID will lead to your suspension, and, depending on the blatancy of the infractions, could lead to your dismissal.

PAYOLA/PLUGOLA

Payola and plugola are two areas where it is very easy for the untrained disc jockey to get into trouble. Payola is the unreported payment to, or acceptance by, employees of broadcast stations, program producers or program suppliers of any money, service or valuable consideration in return for airplay of any programming. In simpler language, the DJ (or music director or program director) receives some form of compensation in exchange for playing a record over the air. Compensation can include cash, concert tickets, vacation packages, video games, computer equipment, extra copies of a CD (more than you would normally need for a giveaway), etc. Simply put, it is illegal for you as an on-air talent to receive anything from anyone for broadcasting on our station. Payola is a crime punishable by one year in prison and a fine of up to \$10,000.

Plugola is the “plugging” (mentioning) of products, events, venues or services when someone responsible for program selection at a radio station gives on-air promotion for something in which he or she has a financial interest. Plugola is similar to payola, except that it need not involve an outside party or monetary payment of any kind and can be accomplished by a single station employee. Some examples of plugola are when a local night club provides payment to a radio announcer to spin records at his or her club and the DJ in turn announces these appearances on the air, if a program director schedules additional donor announcements for a company for which he or she also works, or when a station or DJ is provided with “gifts” such as concert tickets with an expressed or implied understanding that the DJ will hype the artist or event. Bands and businesses will frequently ask the radio station to “plug” an upcoming event. DJs are free to talk about upcoming events if they so choose, but should be aware that excessively mentioning a business could be perceived as plugola even if the DJ is not receiving any direct benefit. Bands and businesses will frequently ask the radio station to “plug” an upcoming event. DJs are free to talk about upcoming events if they so choose, but should be aware that excessively mentioning a business could be perceived as plugola even if the DJ is not receiving any direct benefit. DJs are also not allowed to play their own music on WBCR-lp, as there is the public appearance that material would otherwise not have received airplay.

Below are some examples of what could be considered plugola.

- A DJ announces his public appearances (“I’ll be hosting 80s TV trivia tonight at the Borough”) . *Plugola. The DJ personally benefits from increased attendance at the event.*
- A DJ directs listeners to her Web site for booking information (“If you want to book me for an upcoming gig, details are on my Facebook”). *Plugola. The DJ is blatantly promoting his or her personal business.*
- A DJ is a waiter at a local Italian restaurant. In his sign off, he tells the listeners he is going to work and if any listener wants to stop in, he’ll “treat you real nice.” *While this might not be explicitly payola, the DJ is promoting his place of work and encouraging patronage with his promise of special service.*
- A DJ is best friends with the bartender at a local pub. Each week, she mentions how much fun she has at the pub. *Probably not meant to be payola, but mentioning the same business every week is promotional and should be avoided.*
- A DJ is in a local band. When she reads the Rock Report, she includes information on the band’s performance along with several other shows that night. *This is perfectly acceptable. The DJ has simply provided information, giving no preference to her show or any of the other events mentioned.*
- A DJ’s best friend from grade school now lives in Colorado and has released an album. The DJ personally gives the album to the music director with a recommendation. *This is perfectly acceptable. The DJ is following proper procedure for submitting music.*
- A DJ plays the same song by the same artist every week on her radio show. *While probably not payola, that’s just bad radio.*

CALLS TO ACTION

One of the major differences between a non-commercial station like WBCR-Ip and commercial stations is that we are prohibited by the FCC from issuing any calls to action. A call to action is when a DJ asks, urges, or suggests that the listener should perform some task that could result in a for-profit business making money. You should note that this rule does not apply to non-profit organizations. Calls to action include:

- Urging the listener to buy a record,
- Urging the listener to go to a concert or performance,
- Mentioning the price of a record or concert ticket, and
- Urging the listener to go to a certain store or club.

Calls to action are especially important to watch when doing an in-studio interview with a band. You are allowed to give basic information about an event, but not directly tell listeners to attend. Below are examples of what does and does not constitute a call to action.

- “This is the latest single from Future Kings of Nowhere.” – *Legal. You are just pre-selling a song.*
- “That was the Avett Brothers. Their new album comes out next Tuesday.” – *Legal. You are only providing information.*
- “That was Annuals. Their new album comes out next Tuesday and you should go buy it at School Kids Records.” – *Illegal on several levels. You are urging the listener to make a purchase, as well as mentioning a specific business.*
- “That was Future Islands. They are playing tonight at Cat’s Cradle.” – *Legal. Again, you are only providing information.*
- “That was Inflowential. I saw them last week at Cat’s Cradle and they were awesome.” – *Legal. It is a myth you can never mention a business on the air. If you find yourself constantly mentioning a business, however, you are bordering on plugola.*
- “I have the Rosebuds here with me in the studio. They’re playing tonight at the Lincoln Theatre and we have a pair of tickets to give away to the second caller.” – *Legal. You are just doing a giveaway.*

So when can you issue a call to action? If you are referencing a non-profit organization, such as WBCR-lp, then you can urge all you want. Even if the non-profit will financially benefit (i.e. “send your donations to the American Red Cross”), it is still legal. This is how we are allowed to run public service announcement that contain calls to action. If WBCR-lp is listed as a cosponsor of an event you must consider who the primary beneficiary is before issuing any calls to action. If it is WBCR-lp, then go for it. If it is the for-profit business, then regular rules apply and you should avoid calls to action. If you are not sure if something is a non-profit, it is best to err on the side of caution.

Another thing you will want to file under “things not to say” is price information. Mentioning the price of a concert ticket, that a student discount exists or even that an event is free is all prohibited by the FCC. Free is still a price.

LOTTERIES

Federal law generally prohibits the broadcast of advertisements or information about lotteries. The FCC defines a lottery as “any game, contest or promotion that combines the elements of prize, chance and consideration.”

To make something a lottery, all three elements must be present. A prize is anything of value offered to the contestant. It does not matter how much the value of the prize is, what it is, or if it is in the form of a discount or refund. Chance is when the prize is awarded to a person whose selection is determined in whole or in part upon chance rather than the contestant’s skill. Being the eighth caller is a form of chance. Consideration is when a contestant is required to furnish money or any other item of value (like an entry fee) or are “required to furnish any money or other thing of value or are required to have in their possession any product sold, manufactured, furnished or distributed by a sponsor of a program broadcast on the station in question.”

While there are some instances in which advertisements or information about lotteries are permitted, what you should take with you is that the FCC has very specific rules governing how stations conduct contests (such as lotteries).

DEFAMATION OF CHARACTER/SLANDER

Defamation of character is “communication which exposes a person to hatred, ridicule, or contempt, lowers him in the esteem of his fellows, causes him to be shunned, or injured him in his business or calling.” Libel is the communication of such statements in a printed or fixed medium.

Slander is the communication of such statements in a transitory or non-fixed medium, usually through oral (spoken) representation, such as making defaming remarks on the radio. The National Association of Broadcasters’ “FCC Rules and Policies for Radio” (2002) provides these examples of potentially defamatory statements:

- Accusing a person of professional incompetence or unethical business dealings.
- Accusing a person of a crime or past criminal record without verification.
- Attacking the honesty, virtue, temperance or truthfulness of a person.

- Calling someone, without verification, a liar or saying they have a drinking problem, a disease or a history of psychological problems.

Statements made against public figures need to be made with “actual malice,” in which the speaker knew the information was false and would cause harm to the subject but broadcast it anyhow or acted with reckless disregard for the truth. Radio stations can also be charged with slander by rebroadcasting a defamatory statement made by someone else (such as in sound clip from a news story). The best defense against slander and libel is provable truth, so always double check your facts.

FALSE INFORMATION/BROADCAST HOAXES

It is illegal to knowingly broadcast false information about a crime or catastrophe, especially if such communications may cause substantial “public harm.” Public harm includes direct and actual damages to people or property and the diversion of law enforcement or public health and safety authorities from their duties.

To prevent the broadcast of false information, it is especially important to verify any emergency communication received is indeed genuine. Ask for the name and telephone number of the official providing the emergency information.

EDITORIALIZING

Editorializing is when a DJ goes out of his or her way to offer an opinion about something other than the music played, such as the DJ’s views on abortion, campaign finance reform or the death penalty. If you do offer your opinion, you need to ensure the audience what you say is your opinion only and not the opinion of WBCR-Ip. If your program is editorial or political in nature, you should air an opinion disclaimer at the beginning of each show. Non-commercial stations like ours are also prohibited by the FCC from endorsing political candidates.

OBSCENE, INDECENT AND PROFANE BROADCASTS

It’s Against the Law

It is a violation of federal law to air obscene programming at any time. It is also a violation of federal law to air indecent programming or profane language during certain hours. Congress has given the FCC the responsibility for administratively enforcing these laws. The FCC may

revoke a station license, impose a monetary forfeiture, or issue a warning if a station airs obscene, indecent, or profane material.

Obscene Broadcasts Are Prohibited at All Times

Obscene material is not protected by the First Amendment and cannot be broadcast at any time. The Supreme Court has established that, to be obscene, material must meet a three-pronged test:

“The average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest;

Whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and

Whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value” (*Miller v. California*, 1973).

Indecent Broadcast Restrictions

The FCC has defined broadcast indecency as “language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory organs or activities.” Indecent programming contains patently offensive sexual or excretory material that does not rise to the level of obscenity.

The courts have held that indecent material is protected by the First Amendment and cannot be banned entirely. It may, however, be restricted to avoid its broadcast during times of the day when there is a reasonable risk children may be in the audience. Consistent with a federal indecency statute and federal court decisions interpreting the statute, the Commission adopted a rule that broadcasts—both on television and radio — that fit within the indecency definition and that are aired between 6 a.m. and 10 p.m. are prohibited and subject to indecency enforcement action.

Profane Broadcast Restrictions

The FCC has defined profanity as “including language so grossly offensive to members of the public who actually hear it as to amount to a nuisance.” Like indecency, profane speech is prohibited on broadcast radio and television between the hours of 6 a.m. and 10 p.m.