

Federal Communications Commission  
Washington, D.C. 20554

In reply refer to:  
1800C1-MGK  
94120087

Released: May 1, 1998

**CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Agape Broadcasting Foundation  
Licensee, Station KNON-FM  
4415 San Jacinto  
Dallas, Texas 75204

Dear Licensee:

This letter constitutes a NOTICE OF APPARENT LIABILITY FOR A FORFEITURE pursuant to Section 503(b) of the Communications Act of 1934 (the "Act"), as amended, under authority delegated to the Chief, Mass Media Bureau, by Section 0.283(c)(3) of the Commission's Rules.

By letters of July 2, 1996, and February 3, 1997, we inquired into complaints that noncommercial Station KNON-FM had, in July, September and October of 1994, and again in August and September of 1996, violated Section 399B of the Act, and Section 73.503 of the Commission's Rules. These provisions prohibit noncommercial stations from broadcasting announcements that promote the sale of goods and services of for-profit entities in return for consideration paid to the station. Our letters noted that Station KNON-FM had been assessed a forfeiture for violation of Sections 399B and 73.503 in February 1992.

Your replies of July 19, 1996, and February 19, 1997, concede that violations occurred, and claim that these violations reflected either inadequate supervision stemming from personnel problems at the station (the 1994 violations) or disregard of your established procedures by individual announcers or producers (the 1996 violations). You assert that all individuals responsible for the announcements have been reprimanded or terminated from the station. And, you report that you employ a wide variety of methods to ensure compliance with applicable policies and procedures. In this regard, you note the difficulty of supervising your large number of on-air volunteers (approximately 60 in 1996 and 90 in 1997).

In two instances, you question our assessment of particular announcements, expressing your opinion that they comply with our requirements. In one case, a reference to "the *only*

store...where you can find...," you state that the store in question is in fact the only retail outlet for certain merchandise in a specific part of town. Thus, you urge that the word "only" is not a qualitative description. With respect to a reference to "*all-you-can-eat* catfish on Sundays," you maintain that "all-you-can-eat" is a value neutral description of a type of restaurant and is not implied price information.

We have found the word "only," when combined with a description of features and attributes, to be promotional. "Only," in this context, suggests a comparison with similar establishments; in conjunction with descriptive material, it indicates that the establishment is the "best" of its kind. Letter to Radio Station KUNV(FM), July 10, 1989. In your announcement for Blue Suede Shoe, "a leather goods and music store," the word "only" appears in context to reflect the store's status as the sole source of various goods in a specific geographic area, rather than a claim that it is the "best" among competing merchants. Hence, we agree that use of the word "only" does not in and of itself render this announcement promotional.

While considerations of context may also make the phrase "all-you-can-eat" unobjectionable, we find in the particular context here that its use does imply price information. Letter to Mary Lou Joseph, Vice President, Member Services, 11 FCC Rcd 10052 (MMB 1996). The announcement, which concerns the Rusty Anchor restaurant, includes descriptions of dishes offered and hours of operation. "All-you-can-eat catfish on Sunday" is clearly presented as a one-day-a-week special feature, an event in which pricing is an inducement to patronage.

You attach to your response of February 19, 1997, standard formats that you propose to use for announcements concerning music clubs. These formats include, among other things, fairly extensive descriptions of the clubs' offerings, presented on a night-by-night basis. We have warned in the past of the dangers of "non-identifying verbosity," and have cautioned against a "tendency to exceed identification by dwelling at length on the usefulness, convenience, or advantages of the products or services mentioned." Penfold Communications, Inc., 8 FCC Rcd 78 (MMB 1992). While we cannot assess your proposed formats in the abstract, *i.e.* without reference to specific underwriters, their length and scope could render them promotional under this precedent.

In view of the above, and in light of the violations you have conceded and those we have found, it appears that in July, September and October of 1994, and in August and September of 1996, Agape Broadcasting Foundation, licensee of noncommercial station KNON-AM, Dallas, Texas, violated Section 399B of the Communications Act of 1934, as amended, and Section 73.503 of the Commission's Rules. Accordingly, you are hereby advised of your apparent liability for a forfeiture of five thousand dollars (\$5,000) for your willful and repeated violations. This forfeiture amount was determined after consideration of the factors set forth in Section 503(b)(2) of the Communications Act, taking into consideration the nature, circumstances, extent and gravity of the violations.

In regard to this forfeiture, you are afforded a period of thirty (30) days from the date of this Notice "to show, in writing, why a forfeiture penalty should not be imposed or pay the forfeiture. Any showing as to why the forfeiture should not be imposed or should be reduced shall include a detailed factual statement and such documentation and affidavits as may be pertinent." 47 C.F.R. Section 1.80(f)(3). Other relevant provisions of Section 1.80 are summarized in the attachment to this Notice.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart, Chief  
Mass Media Bureau

## ATTACHMENT

## STATION KNON-FM ANNOUNCEMENTS:

"Ladies' and men's night until 10 both nights." (Price information)

"Longhorn Saloon....Food's great. The atmosphere is unparalleled in any establishment, and warm service, great employees...." (Qualitative descriptions)

"Coming to town? Why shop around? Try Tratech Trophies and Copy Center. Tratech Trophies has everything you need: copies, t-shirts, business cards, plaques, ribbons and much more. We're located at....Open Monday through Friday, 10:30 to 7:00 P.M., Saturday, 9:30 to 2:00 P.M. The number is....or fax us at....Mention KNON and receive a 10% discount on arrival." (Call to action and price information)

"This is Stevie D. with Stevie D. Productions and Stevie D's all-new Tuesday Night House Party....Yes, I have a new club on Tuesday. This club holds 1,800 people. A big theater video screen. State of the art lights and sound." (Qualitative descriptions)

"The Rusty Anchor is a Cajun seafood restaurant....Some of the specialty dishes include a wide variety of seafood cooked to order, live crawfish, and all-you-can-eat catfish on Sundays." (Implied price information)

"Blue Suede Shoe...The only store in Deep Ellum where you can find...." (Not qualitative description in context of "sole" store)

## SAMPLE PROPOSED ANNOUNCEMENTS

"This program is sponsored in part by \_\_\_\_\_. \_\_\_\_\_ is open from \_\_\_\_\_ until \_\_\_\_\_, Wednesday through Sunday nights. Thursday night \_\_\_\_\_ presents the \_\_\_\_\_ contest. Friday and Saturday nights \_\_\_\_\_ has live music with \_\_\_\_\_ this Friday night and \_\_\_\_\_ in concert this Saturday night. \_\_\_\_\_ is located at \_\_\_\_\_, and for more information their number is \_\_\_\_\_. KNON thanks \_\_\_\_\_ for their support of community radio at 89.3 FM."

"Great blues programming on KNON is possible in part by support from \_\_\_\_\_. \_\_\_\_\_ is a barbecue and blues club that is open daily from \_\_\_\_\_ until \_\_\_\_\_. \_\_\_\_\_ serves barbecue, beverages and blues daily. They feature all blues on their jukebox, and on Friday and Saturday nights they have live blues bands in the house. This Friday and Saturday \_\_\_\_\_ comes to \_\_\_\_\_. KNON thanks \_\_\_\_\_ for their support of our great blues programming which airs...."