

FCC 75-808

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the Matter of
 MOTION FOR DECLARATORY RULING ON A BROADCAST STATION'S PROMOTIONAL PRACTICES

ORDER

(Adopted July 8, 1975; Released July 23, 1975)

BY THE COMMISSION:

1. We have before us a Motion for Declaratory Ruling filed by the law firm of Haley, Bader & Potts on May 9, 1975; an Opposition, filed by the Broadcast Bureau on May 20, accompanied by a Motion for Leave To File Pleading¹; a Reply to the Bureau's Opposition filed on May 28; an Opposition to the Motion filed by Tidewater Sounds, Inc. on June 11²; and a Reply to Tidewater's Opposition filed on June 20.

2. Petitioner asks that we issue a general statement as to promotional practices in which a station may (or may not) engage, particularly in the sale of advertising and with regard to representations concerning its coverage area, its day and nighttime power and like matters. It suggests that such a statement, "would leave the licensee sufficient latitude within which to approach flexibly the promotion of its station." (Motion, at p. 6.)

3. First, as petitioner suggests in its reply, this request is more in the nature of a Petition for Rule Making or a Petition for Inquiry than a Motion for Declaratory Ruling, and will be treated as such.

4. Secondly, we do not think it would be practical or useful to attempt to specify what is and is not proper in this area. As the petitioner notes, there may be "myriad possibilities for graphically depicting station coverage which have not been the subject of Commission consideration" and the same "can be said for methods of describing authorized facilities in other promotional materials." But we do not think that "guidelines" answering the specific questions which have occurred to petitioner, or which might occur to us, are a useful solution to anticipating the ingenuity and variety of possible description which may raise a question of accuracy. The basic policy should be well understood. Full disclosure and candor are expected of the licensee in his dealings with potential advertisers—with regard

¹ The Bureau's Motion for Leave To File Pleading is hereby granted.

² Tidewater is one of three mutually exclusive applicants for a new FM station in Suffolk, Virginia (Docket No. 20268-70). Voice of the People (Voice) a competing party, is represented by Haley, Bader & Potts. An 80% partner in Voice is the sole shareholder of WYAL Radio, Inc., and the promotional practices of WYAL are at issue in the comparative hearing. Tidewater's Opposition was filed 20 days late (see §§ 1.45 and 1.4(g)) and has not been considered.

to the station's coverage area, power and other matters relating to audience potential. Inaccurate or misleading statements to induce the purchase of advertising time must be avoided. We think that we have provided sufficient guidance in this area, recognizing that we cannot, in any event, cover all possibilities.

5. In view of the foregoing, the motion filed by Haley, Bader and Potts IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS, *Secretary*.

54 F.C.C. 2d

7